

TOWN BOARD MEETING

Town of Westfield
September 2nd, 2009

7:25pm Public Hearing / SUP Application for 6' high Fence (Hessel)

7:30pm Town Board Meeting

- Presentation / Westfield Memorial Hospital

1. Minutes - August 5th, 2009 Town Board Meeting
2. Monthly Reports - Supervisor's Monthly Report
 - Town Clerk's Monthly Report
 - Dog Warden's Report
 - Fire Dept. Monthly Report
 - Historian's Monthly Report
 - Town Court Report
3. Highway
4. Code Enforcement
5. Barcelona Harbor
6. Public Comment

ANNOUNCEMENTS

- "Light the Lakes", September 6th, 2009

OLD BUSINESS

- Project Updates (Wind / E. Main Road Water / Bell Creek Bridge)
- Bid Award (Dump Box Spreader)
 - Valley Fab - \$7200
 - M&C (Incomplete Bid)
 - George & Swede - \$9260

NEW BUSINESS

- **Resolution #43** - Negative Declaration (SUP 6' High Fence / Hessel)
- **Resolution #44** - Issuance SUP to Construct 6' High Fence
- **Resolution #45** - Authorization to Purchase Real Property
- **Resolution #46** - Sidewalk Agreement
- Fall Clean-Up (Saturday, October 3rd, 2009) 9:00am - 1:00pm @ Transfer Station
- Date for Special Meeting (Budget Workshop)
- Accept Resignation of Assessor
- Proposed Public Hearings:
 - Westfield Fire District 7:15pm
 - Sherman Fire District 7:20pm
 - SUP KOA 7:25pm

Audit of Bills

Executive Session - (if needed)

Resolution No. 43 of 2009
Negative Declaration SUP for 6' High x 8' Long Fence (Hessel)

WHEREAS, Gordon Hessel (hereinafter, the "Applicant") has submitted an application for a Special Use Permit to construct a 6' x 8' fence at 24 West Central Avenue, Westfield, designated as tax map parcel Section 192.09, Block 1, Lot 7, and

WHEREAS, the proposed use has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a short Environmental Assessment Form, and

WHEREAS, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the proposed use, and

WHEREAS, the Board has determined that the proposed use will not have a significant environmental impact,

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby approves Part II of the Environmental Assessment Form as completed, issues the attached Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed use, and authorizes the Supervisor to complete and sign the Environmental Assessment Form accordingly.

Resolution No. 44 of 2009
Issuance of SUP to Construct 6' High x 8' Long Fence (Hessel)

WHEREAS, Gordon Hessel (hereinafter, the "Applicant") has submitted an application requesting permission to construct a 6' x 8' fence on a parcel of land located at 24 West Central Avenue, Westfield, designated as tax map parcel Section 192.09, Block 1, Lot 7, and

WHEREAS, the issue of compliance with the State Environmental Quality Review Act has been addressed, and a Negative Declaration has been issued after examination of the record and a public hearing, and

WHEREAS, the Town of Westfield Planning Board reviewed the application during a meeting held August 20, 2009 and unanimously recommended approval of the application, and

WHEREAS, the application was referred to the Chautauqua County Planning Department pursuant to Section 239-m of the General Municipal Law, and it advised by letter dated August 27, 2009 that the application is a matter of local concern, and

WHEREAS, the Town Board finds that the additional 2' of fence height will not unreasonably impede visibility from adjacent properties, nor adversely affect light and air movement, and

WHEREAS, the Town Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing held September 1, 2009 and finds justification to approve the application subject to the qualifications hereinafter set out, now

THEREFORE, BE IT RESOLVED, that the application to construct a 6' x 8' fence at 24 West Central Avenue (the "Use"), be and hereby is authorized and approved subject to the conditions and requirements hereinafter set out:

1. The Applicant shall undertake the Use in accordance with the plans and map submitted to the Town with the application, except as hereinafter modified, and agrees to be bound by the terms of the application and the conditions of this permit.

2. If construction of the Use has not commenced within one year of the issuance of this permit, this Special Use Permit shall become void and the Applicant shall be required to apply for a new permit should he intend to continue the project.
3. The terms, conditions, and requirements of this permit bind and obligate the Applicant, his successors, and assigns. This permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town.
4. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in accordance with the terms or requirements of any statute, local law, ordinance or regulation, may be deemed a violation of the Town of Westfield Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the Applicant, may subject them to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.
5. This Special Use Permit shall become effective after the Applicant approves each and every provision hereof and agree to be bound by all of the terms herein contained in consideration of the granting of this Special Use Permit.

Resolution No. 45 of 2009
 Authorization to Purchase Real Property

WHEREAS, in 1934 the Town received by gift a parcel of real property located on Coon Road in said Town, which is designated on the county tax map as Section 259.00, Block 2, Lot 24 and Section 260.00, Block 2, Lot 45, totaling 49.2 acres (the "Coon Road Property"), which has never been developed for public use, and

WHEREAS, the Coon Road Property has a total fair market value of \$116,507, comprised of \$41,800 for land and \$74,707 for harvestable timber, as determined by an appraisal report of Bruce E. Robinson, Inc., Forestry Consultants made in July 2009, and

WHEREAS, it is no longer necessary for the Town to retain said property, and

WHEREAS, David A. Spann is the owner of real property located near the mouth of Chautauqua Creek designated on the county tax map as Section 192.06, Block 1, Lot 9, which contains approximately 1,800 feet of beach frontage on Lake Erie, 1,900 feet of frontage on Chautauqua Creek, and 50 feet of frontage on New York State Route 5, and

WHEREAS, the Town desires to purchase approximately 7 acres of said lot, including all of the frontages listed above, in order to preserve and expand public access to Chautauqua Creek and Lake Erie (the "Peacock Point Property"), and

WHEREAS, Spann has proposed that he convey the Peacock Point Property to the Town in exchange for the Coon Road Property, and

WHEREAS, a 2008 appraisal of the Peacock Point Property made by George W. Holt, a New York State Certified General Real Estate Appraiser, found that the fair market value of the beachfront property alone is \$181,800, and

WHEREAS, the Town also would receive fee title to a 33 feet wide strip of land running from the beach to Route 5 and a roughly 5,000 square feet of land near Route 5, neither of which was included in the Holt appraisal, and

WHEREAS, the Town Board finds that the fair market value of the Peacock Point Property to be received by the Town exceeds the value of the Coon Road Property to be conveyed to Spann, that the Peacock Point Property will be of greater use to the general public than the Coon Road Property, that the terms of the sale and purchase as negotiated are the most beneficial to the taxpayers of the Town of Westfield, and that the transaction is in the public interest

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Westfield, in regular session duly convened, does hereby authorize and direct the Town Supervisor to:

1. Execute a Contract of Sale and thereafter deliver to David A. Spann the Coon Road Property, subject to a permissive referendum as permitted by law; and to
2. Execute a Contract of Sale and thereafter receive from David A. Spann the Peacock Point Property.

Resolution No. 46 of 2009
Sidewalk Agreement

WHEREAS, the Town Supervisor, in consultation with the Town Attorney, has negotiated a License Agreement whereby David M. Zimmerman and Gregory T. Zimmerman, the owner's of Zebro's Harbor House restaurant, would be permitted to use a portion of the Town's Highway Right-of-Way on First Street in Barcelona for a sidewalk, and

WHEREAS, the Town Board finds that the Town is adequately protected from any and all claims arising from said Agreement and believes it to be in the best interests of the Town of Westfield to enter therein

BE IT RESOLVED, the Supervisor is hereby authorized to sign said License Agreement on behalf of the Town of Westfield.
