

REGULAR MEETING
September 15, 2014

A regular meeting of the Town Board of the Town of Busti was held on September 15, 2014 at 6:45 p.m., at the Busti Lakewood Recreational Center, 9 W. Summit St, Lakewood, New York with the following members present:

Supervisor Jesse M. Robbins
Councilman Richard B. Thor
Councilman Kenneth J. Lawton – left at 7:45 p.m.
Councilman Todd M. Hanson
Councilman Brett A. Muccheck

Supervisor Robbins called the meeting to order with the salute to the flag and a moment of silence was observed.

Present at the meeting were: Joseph Casel, Nick Bradish, Kaie Smith, Randy Ridgeway, Tom & Michelle Turner, Rick McMahan, Jack Scalise, Jason Hanson, Lou Drago, David Bargar, Betsy Johnson, Cheryl Johnson, Paul DeFrisco, Jim Loomis, Inspection Officer Jeff Swanson, Highway Superintendent Melvin Peterson, Busti Lakewood Recreation Director Diana Peterson, Lakewood Busti Police Chief John Bentley, Post Journal Reporter Mallory Diefenbach, and Attorney Joel H. Seachrist.

Residents present were given the opportunity to be heard.

Chief John Bentley reported 8,930 incidents year to date. Conewango Kennel Club made a donation to be used toward the expense of the Canine Unit. The Canine Unit recently had a successful chase and the chase also resulted in drug arrest. Larcenies continue to be a problem in the area.

Highway Superintendent Melvin Peterson reported that the Highway Department has been repairing road shoulders, unplugging sluice pipes and will be paving a one mile section of Orr Street, White Hill Circle, and possibly Park Meadow Drive. The mulch at Lawson Park has been replaced as requested by FEMA. Superintendent Peterson is expecting a report soon from FEMA in regards to storm damage financial help.

Inspection Officer Jeff Swanson reported that he received plans for the Calamar Senior Housing project. A New York State Code Enforcement representative will be meeting with Jeff this week to review the plans.

Superintendent Peterson is still waiting for one more bid for the tree removal at the Bentley Cemetery.

Supervisor Robbins reported that Todd Saracki has agreed to serve on the Comprehensive Plan Implementation Committee with Councilman Muccheck and David Paterniti.

Tom and Michelle Turner introduced their plan to convert the current Busti Recreation Center to an upscale Pizzeria/Pub. The Turner's have made an offer to purchase the said building located at 9 W. Summit St., Lakewood from the Town of Busti. The Quonset Hut design would remain the same with some modifications on the exterior and a complete interior renovation. The green space would remain the same.

Supervisor Robbins moved the following resolution which was duly seconded by Councilman Thor.

RESOLVED, that Supervisor Robbins be authorized and directed to pay the presented General Fund, Highway Fund, Joint Recreation Fund, the Public Library Fund, the Drainage District #2 Fund and the Water District #8-South Main Fund for Abstract No. 19 from warrant #651 to and including warrant #697 in the amount of \$111,345.47.

Upon roll call vote, all aye. Carried

Supervisor Robbins noted it was 7:00 p.m. and time to open the Public Hearing for Joseph Casel to modify an existing Special Use Permit to permit him to build seven additional self-storage units on his property located at 1422 Forest Avenue Extension.

Upon roll call vote, all aye.

Proof of publication was placed on file.

Supervisor Robbins moved to close the public hearing which was duly seconded by Councilman Lawton:
Upon roll call vote, all aye.

Councilman Thor moved to adopt the following negative declaration which was duly seconded by Councilman Hanson:

WHEREAS, Joseph Casel (hereinafter, the “Applicant”) has submitted an application for a Special Use Permit to modify an existing special use permit to allow him to construct and operate an additional seven (7) self-storage units on parcels located at 1422 Forest Avenue, designated as tax map parcels Section 421.00, Block 1, Lots 1, 2, 3 and 16, 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 Parts I and II of the Environmental Assessment Form, 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.

Upon roll call vote, all aye, carried.

Action of the Board:

To consider the application of Joseph Casel to modify an existing Special Use Permit issued in July 2012 pursuant to Section 405-13(B)(1) to allow him to construct and operate an additional seven (7) self-storage unit buildings at 1422 Forest Avenue in the Town of Busti, on parcels designated on the Chautauqua County tax map as Section 421.00, Block 1, Lots 1, 2, 3 and 16.

Resolution moved by: Supervisor Robbins

Seconded by: Councilman Muccheck

WHEREAS, Joseph Casel (hereinafter, the “Applicant”) has submitted an application requesting permission to construct an additional seven (7) self-storage unit buildings at 1422 Forest Avenue in the Town of Busti, on parcels designated on the Chautauqua County tax map as Section 421.00, Block 1, Lots 1, 2, 3 and 16, comprising approximately 105 acres, 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 Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing held September 15, 2014 and finds justification to approve the application subject to the qualifications hereinafter set out, and

WHEREAS, Town Board makes the following findings of fact:

- (1) The use is proposed to be located on contiguous parcels under common ownership comprising more than 100 acres;
- (2) The use is secondary to and in support of the Applicant’s existing commercial use known as Casel Auto Sales;

- (3) The use complies with Section 405-13(B)(1) of the Town of Busti Zoning Code in that, among other things, it will not produce any noise, odors or lights to annoy neighboring properties.

NOW, THEREFORE, BE IT RESOLVED, that the application to modify an existing special use permit to permit the construction and operation of an additional seven (7) self-storage unit buildings at 1422 Forest 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 application submitted to the Town, except as hereinafter modified, and agrees to be bound by the terms of the application and the conditions of this permit and any Special Use Permit issued heretofore in relation to the same property.
2. If operation 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, except as otherwise herein noted.
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.

Dated: September 15, 2014

Vote:	Aye	Nay
<u>Supervisor Robbins</u>	<u> x </u>	<u> </u>
<u>Councilman Mucke</u>	<u> x </u>	<u> </u>
<u>Councilman Thor</u>	<u> x </u>	<u> </u>
<u>Councilman Hanson</u>	<u> x </u>	<u> </u>
<u>Councilman Lawton</u>	<u> x </u>	<u> </u>

The Applicant, Joseph Casel, agrees to abide by all the terms of this Special Use Permit.

Dated: September 15, 2014

Joseph Casel

Lou Drago, treasurer of The Kiwanis Club of Lakewood, presented the club's proposal to release the deed restriction for 9 W. Summit Street, Lakewood, NY as follows:

The Kiwanis Club of Lakewood
P.O. Box 263
Lakewood, NY 14750

September 11, 2014

Supervisor Jesse Robbins

Town of Busti

125 Chautauqua Avenue

Lakewood, New York 14750

Re: 9 West Summit Avenue, Lakewood, New York

Dear Mr. Robbins:

Please be advised that at a regular meeting of the Kiwanis Club of Lakewood held September 9, 2014; the membership duly adopted a resolution to do the following:

1. Release and forever extinguish a certain restrictive covenant contained in a Deed from the Kiwanis Club to the Town of Busti dated June 19, 1972, and recorded in the Chautauqua County Clerk's office in Liber 1431 of Deeds at page 248, which required the Town of Busti to retain the land conveyed by the Deed "as developed, for permanent open space purposes, and the open space use or uses of said land shall be for park and recreational purposes, conservation of land and other natural resources", and
2. Authorize the Club President to sign any documents necessary to effect such extinguishment; and
3. Make the authorization to release and extinguish the restrictive covenant (a) contingent upon payment by the Town of Busti to the Kiwanis Club of Lakewood, New York, Inc., of an amount equal to 50% of the gross sale price of 9 West Summit Avenue and (b) null and void unless such transaction is completed by March 1, 2015.
4. 'SPECIAL WORDING' that states our intent to donate 20% of the proceeds immediately back to the Town of Busti to offset the costs associated with the building of the new community center; with consideration for recognition of the Busti Community Center in dedication to the Kiwanis Club of Lakewood. (We would like naming rights, i.e. "The Kiwanis Community Center").
5. 'SPECIAL WORDING' that states our club's commitment to donating, over a period of time, the remaining 30% of the proceeds; limited to the Lakewood and surrounding community focused on:
 - Maternal and Child Health
 - Child Care and Development
 - Parent Education and Support

- Safety and Pediatric Trauma

6. In consideration of our donation to the improvements of the Lakewood Busti Community Center, it should be known in this agreement, that we are not responsible for the maintenance, use and/or operations of this building and therefore held harmless in the event of future liability claims.

Sincerely,

Name	Title
------	-------

Councilman Hanson moved the following resolution which was duly seconded by Councilman Mucheck:

RESOLVED, that the Town of Busti accept the proposal as presented by the Kiwanis Club of Lakewood to remove the deed restriction on 9 W. Summit Street, Lakewood, New York.

Upon roll call vote, all aye, carried.

Note that the representatives of the Kiwanis Club would not sign the letter as presented; the club will present a new letter with changes in the wording.

Supervisor Robbins moved to adopt the following negative declaration which was duly seconded by Councilman Thor:

WHEREAS, the Town of Busti has proposed the sale of 7-9 West Summit Avenue to Michelle Turner for \$107,000, which is an Unlisted Action for purposes of the New York State Environmental Conservation Law (State Environmental Quality Review Act), and

WHEREAS, the proposed sale has been subject to environmental review pursuant to Article 8 of the 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 sale, and

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

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby issues a Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed sale of 7-9 West Summit Avenue to Michelle Turner.

Upon roll call vote, all aye, carried.

Councilman Lawton moved the following resolution which was duly seconded by Councilman Hanson:

WHEREAS, the Town owns and has used the property at 7-9 West Summit Avenue, Lakewood, New York, designated on the official tax map as Section 368.19, Block 2, Lots 8, 9, 10, and 48, as and for a recreation center, and

WHEREAS, the Town has purchased a nearby building and will develop space therein as a recreation facility so that it is no longer necessary for the Town to retain the property at 7-9 West Summit Avenue, and

WHEREAS, Michelle Turner has proposed to purchase 7-9 West Summit Avenue for \$107,000, and

WHEREAS, the sale of a town facility like 7-9 West Summit Avenue is not subject to the Town's policy regarding the sale of town-owned property, and

WHEREAS, the Town Board has determined that the proposed sale is an Unlisted action for purposes of

the State Environmental Quality Review Act, has prepared a short Environmental Assessment Form, and has duly adopted a Negative Declaration finding that the proposed sale will not have significant adverse environmental impacts

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Busti, in special session duly convened, does hereby authorize and direct the Supervisor to negotiate and sign a Contract of Sale, and to execute and deliver to Michelle Turner such instruments as are necessary to convey the said property for \$107,0000.00, all being subject to permissive referendum as permitted by law.

Discussion followed. Councilman Lawton withdrew his motion, allowing the town board to inform the community of the proposed sale and allow them to be heard on the subject.

Councilman Thor moved the following resolution which was duly seconded by Councilman Hanson:

RESOLVED, that a public hearing be scheduled on October 6, 2014 at 7:00 p.m. to solicit public comments on the sale of the Busti-Lakewood Recreation Center located at 9 W. Summit Avenue in Lakewood.

Upon roll call vote,

Supervisor Robbins – aye

Councilman Muccheck – aye

Councilman Thor – aye

Councilman Hanson – aye

Councilman Lawton – absent

Carried

Supervisor Robbins moved the following motion, duly seconded by Councilman Muccheck:

RESOLVED, the board will enter Executive Session to personnel issues at 8:00 p.m.

Upon roll call vote, all aye.

Supervisor Robbins moved the following motion, duly seconded by Councilman Muccheck:

RESOLVED, the board close the Executive Session at 9:00 p.m.

Councilman Hanson moved to adjourn the meeting at 9:01 p.m., which was duly seconded by Councilman Muccheck.

All aye.

Respectfully Submitted,

Darlene Nygren, Town Clerk