



TOWN OF NORTH CASTLE
WESTCHESTER COUNTY
17 Bedford Road
Armonk, New York 10504-1898

PLANNING BOARD
Christopher Carthy, Chair

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RESOLUTION

Action: Site Plan and Wetland Permit Approvals [2020-011]
Applicant/Owner: Merrie Hughes R/T, Armonk Levine LLC, Armonk Smith LLC, Nadine Kent Trust, NY Dealer Stations LLC
Designation: 101.01-1-6
Zone: CB Zoning District
Acreage: 0.28 acres
Location: 375 Main Street
Date of Approval: May 24, 2021
Expiration Date: May 24, 2022 (1 Year)

WHEREAS, the subject property is an existing gasoline filling and service station use in the CB Zoning District; and

WHEREAS, the Applicant is seeking approval to redevelop the property and to remove the existing structure and fuel dispensers and construct a new 1,800 square foot convenience store, two fuel dispensers, a canopy and other associated site improvements (i.e. sidewalks, curbing, landscaped areas, etc.); and

WHEREAS, the property is approximately 0.28 acres in size and lies within the CB zoning district; and

WHEREAS, in connection with the proposed development, the Applicant has submitted the following plans:

- Plan labeled "1 of 15," entitled "Cover Sheet," dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled "2 of 15," entitled "Existing Site Plan," dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled "3 of 15," entitled "Proposed Site Plan," dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled "4 of 15," entitled "Proposed Grading, Drainage & Utility Plan," dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled "5 of 15," entitled "Proposed Landscaping Plan," dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled "6 of 15," entitled "Proposed Lighting Plan," dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled "7 of 15," entitled "Proposed Fuel Truck Path Plan," dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.

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- Plan labeled “8 of 15,” entitled “Proposed Building Floor Plan,” dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled “9 of 15,” entitled “Proposed Building Elevations I,” dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled “10 of 15,” entitled “Proposed Building Elevations II,” dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled “11 of 15,” entitled “Proposed Canopy Elevations and Signage Details,” dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled “12 of 15,” entitled “Proposed Site Details I,” dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled “13 of 15,” entitled “Proposed Site Details II,” dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled “14 of 15,” entitled “Proposed Site Details III,” dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.
- Plan labeled “15 of 15,” entitled “Proposed Site Details IV,” dated May 11, 2020, last revised February 10, 2021, prepared by Bronzino Engineering, P.C.

WHEREAS, the Architectural Review Board approved the proposed building design and site signage at the January 20, 2021 meeting; and

WHEREAS, the application for site plan approval was referred to the Westchester County Planning Board pursuant to § 239-m of New York State General Municipal Law (GML) on March 20, 2020; and

WHEREAS, The Westchester County Planning Board response indicates support for the proposed new sidewalks, and recommends additional stormwater management, recycling areas, green building technology and bicycle parking; and

WHEREAS, the site plan depicts several elements that are located within the NYSDOT right-of-way for NYS Route 128; and

WHEREAS, the Applicant has stated that they have consulted with the NYSDOT and they have tentatively approved the site driveways and proposed pedestrian improvements; and

WHEREAS, the plan depicts the disturbance to 5,566 square feet of Town-regulated wetland buffer; and

WHEREAS, the Applicant is proposing to contribute to the North Castle Wetland Mitigation Bank since on-site wetland mitigation is not possible; and

WHEREAS, pursuant to Section 340-5.B of the Town Code, the Conservation Board is required to review the proposed wetland application and, within 45 days of receipt thereof, file a written report and its recommendation concerning the application with the Planning Board. Such report

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is required to evaluate the proposed regulated activity in terms of the findings, intent and standards of Chapter 340; and

WHEREAS, the Conservation Board recommended approval of the wetlands permit in a memorandum to the Planning Board; and

WHEREAS, the Conservation Board also recommended collection of a fee-in-lieu of providing on-site wetland mitigation; and

WHEREAS, the redevelopment of the gas station is largely located in a Town-regulated wetland buffer; and

WHEREAS, given the small lot size and redevelopment proposed, the site plan can't accommodate the required wetland buffer mitigation of 11,134 square feet; and

WHEREAS, the Town Code permits the Town Board to accept a fee for mitigation that can't be provided on site to be placed in a dedicated fund for restoring wetlands and wetland buffers; and

WHEREAS, both the Conservation Board and Planning Board recommended that the Town Board authorize the acceptance of the fee in-lieu (\$27,835); and

WHEREAS, the Town Board on May 12, 2021 authorized the collection of a \$27,835 fee-in-lieu of providing on-site wetland mitigation; and

WHEREAS, the site plan depicts an outdoor display and sales area; and

WHEREAS, outdoor sales and display requires the issuance of a Town Board special use permit; and

WHEREAS, the Town Board issued the requisite special use permit on May 12, 2021; and

WHEREAS, the Applicant has agreed to extend the decorative lighting to the gas station property frontage on Main Street; and

WHEREAS, the Applicant has offered to purchase and install the lighting in the NYSDOT right-of-way; and

WHEREAS, the Applicant asked that the Town of North Castle be a co-applicant on the NYSDOT permit for the lighting installation and for the Town to agree to assume costs for the operation and maintenance of the lighting; and

WHEREAS, the Town Board at its May 12, 2021 meeting agreed that the Town and Applicant shall submit an application to NYSDOT for the installation of lighting in the NYS Route 128 right-of-way and for the Town to assume costs for the operation and maintenance of the lighting; and

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WHEREAS, on May 24, 2021, the Planning Board, pursuant to §355-44 of the North Castle Code, conducted a duly noticed public hearing with respect to the site plan and wetlands permit applications, at which time all those wishing to be heard with respect to the site plan were given an opportunity to be heard; and

WHEREAS, the site plan depicts the proposed canopy no closer than 8 feet to Main Street; and

WHEREAS, the Applicant confirmed the canopy encroachment was permitted with the Building Inspector in June 2020; and

WHEREAS, the Building Inspector will follow the determination of the Zoning Board of Appeals from October 1989 concerning Gas Station Canopies; and

WHEREAS, the site contains encroachments from the adjacent property located at 1 Kent Place; and

WHEREAS, because of the encroachment the rear yard setback of 30 feet can't be met; and

WHEREAS, the Applicant received the required variance from the Zoning Board of Appeals on March 4, 2021; and

WHEREAS, the site plan depicts a proposed patio and wall located within 5 feet of a property line which is not permitted pursuant to Section 255-15.A of the Town Code; and

WHEREAS, the Applicant received the required variance from the Zoning Board of Appeals on March 4, 2021; and

WHEREAS, the proposed 34.29 sq. ft. monument sign exceeds the maximum permitted sign area of 25.08 sq. ft. pursuant to Section 255-16.F.(2) of the Town Code; and

WHEREAS, the Applicant received the required variance from the Zoning Board of Appeals on March 4, 2021; and

WHEREAS, the Proposed Action would be classified as an Unlisted Action pursuant to the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Planning Board declared their intent to act as Lead Agency; and

WHEREAS the site plan was forwarded to the Chief of Police, Fire Inspector and the Armonk Fire Chief so that they may make any pertinent recommendations to the Planning Board including, but not limited to, the designation of no-parking zones, emergency vehicle access or any other issued deemed important to providing emergency services; and

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WHEREAS, the Planning Board has inspected the site and is familiar with the nature of the site, the surrounding area, and the proposed development; and

WHEREAS, the Planning Board has requested, received, and considered comments from the Town Attorney, Town Engineer, and Town Planner regarding the proposed development; and

WHEREAS, the requirements of the Zoning Ordinance of the Town of North Castle have been met by said application; and

NOW THEREFORE BE IT RESOLVED, that based upon its review of the full environmental record the Planning Board finds that the proposed action will not result in any significant adverse environmental impacts and hereby adopts a Negative Declaration pursuant to the requirements of Article 8 of the New York State Environmental Quality Review Law and 6 NYCRR Part 617; and

BE IT FURTHER RESOLVED, that the application for site plan and wetlands permit approvals, as described herein, is hereby conditionally approved, subject to the following conditions and modifications; and

BE IT FURTHER RESOLVED that, this site plan, tree removal permit and wetlands permit approvals shall expire one (1) year after the date of this resolution unless all of the conditions and modifications identified below have been substantially completed or an extension of time has been requested by the applicant or granted by the North Castle Planning Board.

Prior to the Signing of the Site Plan:

(The Planning Board Secretary's initials and date shall be placed in the space below to indicate that the condition has been satisfied.)

- _____1. The applicant shall submit payment to the North Castle Wetland Mitigation Bank in the amount of \$27,835 as authorized by the Town Board on May 12, 2021 pursuant to Section 340-9(4) of the Town Code to the satisfaction of the Town Planner.
- _____2. The Applicant shall submit documentation confirming that the NYSDOT has issued permits for all work in the NYS Route 128 right-of-way (curbcut, sidewalk, lighting, etc.) to the satisfaction of the Town Engineer.
- _____3. The Existing Site Plan shall clearly illustrate the limits of all items to be removed, such as curb, sidewalk, fence, existing sanitary sewer and water services, etc. to the satisfaction of the Town Engineer.
- _____4. Pursuant to Section 177-17A of the Town Code, the lowest floor is required to be elevated to at least two (2) feet above the base flood elevation or be floodproofed so that the structure is watertight below two feet above the base flood level

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(Elevation 381.0). The applicant shall provide a construction detail of the proposed flood gates to the satisfaction of the Town Engineer.

- _____5. The site plan shall be revised to depict the proposed location of the decorative street lamps in the NYS Route 128 ROW to the satisfaction of the Town Engineer.
- _____6. The site plan shall be revised to include a detail of the decorative street lamp to the satisfaction of the Town Engineer. The detail should be for a 920P Nantucket Lantern with frosted glass chimney, clear glass bottom with photo cell receptacle, advance ballast #71A7807B-500D, intermatic twist lock receptacle model K122 in satin black. Light Head manufactured by New Stamp Lighting. <http://www.newstamp-lighting.com/products/product/920p-antique-copper-nantucket-post-lantern/>
- _____7. The proposed sidewalks along Main Street and Kent Place shall be equipped with ADA accessible drop curbs to the satisfaction of the Town Engineer. The plan shall indicate locations of all ADA accessible ramps and include appropriate ADA ramp details, as per NYSDOT standards.
- _____8. The applicant has provided a proposed sight line plan for all exit points on the property. The plan shall include a sight line plan and profiles for all access points to demonstrate adequate visibility a minimum of 200 feet in each direction for vehicles entering/exiting the site to the satisfaction of the Town Engineer
- _____9. The applicant has provided an Engineer's Report of Stormwater Quantity demonstrating adequate mitigation of stormwater runoff through the 100-year, 24-hour storm event. The drainage area calculations illustrated on the proposed site plan are no longer applicable and shall be removed. The overflow connection from the mitigation system is shown to connect to the sanitary sewer. This must be revised to connect to the Town storm sewer to the satisfaction of the Town Engineer. Additionally, any connections to the storm system shall be at an existing structure. If none exists, a doghouse manhole or catch basin on the main line will be required.
- _____10. The Erosion and Sediment Control Plan (C-014.00) shows construction staging located on the adjoining property. The applicant has indicated that they are in pursuit of a License Agreement with neighboring property owner to permit this to occur. If so, the applicant shall provide a copy of the License Agreement to the satisfaction of the Town Attorney.
- _____11. Sediment and erosion control details are provided on the Erosion and Sediment Control Plan (C-014.00). Controls which are not applicable shall be removed from the plan to the satisfaction of the Town Engineer.

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- _____ 12. The existing site plan shall illustrate the location of all existing gas, water, electrical, stormwater sewer, and sanitary sewer services both within property limits and on Kent Place and Main Street to the satisfaction of the Town Engineer.
- _____ 13. The proposed utility plan shall show proposed water, electrical, gas, stormwater sewer, and sanitary sewer services, including pipe material, size, and invert elevations and their connections to the main line, as appropriate, to the satisfaction of the Town Engineer. The plan shall include details for utility trenches, service connections and road restoration.
- _____ 14. The location of the proposed One-Way signs shall be illustrated on the Site Plan to the satisfaction of the Town Engineer.
- _____ 15. The site plan shall be revised to depict a six foot wide sidewalk at the front of the building in the vicinity of the proposed outdoor display and sales to the satisfaction of the Planning Department and Town Engineer.
- _____ 16. The site plan shall be revised to depict foundation plantings along all visible sides of the building to the satisfaction of the Planning Department.
- _____ 17. The site plan depicts landscaping on the adjacent property (to screen the proposed building from Main Street). The Applicant shall submit and file an easement agreement to the satisfaction of the Town Attorney.
- _____ 18. The site plan depicts a wall and patio on the adjacent property (Cardile) to remain. The Applicant shall submit and file an easement agreement to the satisfaction of the Town Attorney.
- _____ 19. The Site Plan depicts a portion of the existing building, walkways, walls and patio, on 1 Kent Place. The Applicant shall submit and file an easement agreement to the satisfaction of the Town Attorney.
- _____ 20. Pursuant to Section 127-17 of the Town Code, the applicant shall submit a detailed quantity cost estimate for all on- and off-site improvements proposed, with the quantities certified to by the applicant's engineer, to the satisfaction of the Town Engineer.

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- _____ 21. Submission to the Planning Board of a suitable legal agreement, in the form satisfactory to the Town Attorney, assuring the Town that the applicant will deposit cash or file a surety bond or other security acceptable to the Town Board (such as a Letter of Credit) for the construction of the off site improvements, the amount of said bond or other surety to be determined by the Town Board. Such bond shall be released after the completion of the work to the satisfaction of the Town Engineer.
- _____ 22. Payment of all applicable fees, including any outstanding consulting fees.
- _____ 23. The Applicant shall submit to the Planning Board Secretary one (1) set of plans (with required signature block) incorporating all required amendments to the plans as identified in this resolution of approval to the satisfaction of the Town Planner, Town Engineer and Town Attorney.
- _____ 24. The Applicant shall submit final construction plans for site improvements to the Town Engineer for his approval of driveways, parking areas, storm drainage system, water and sewer connections, sidewalks, erosion and sediment controls and any other information requested by the Town Engineer to the satisfaction of the Town Engineer.

Prior to the Issuance of a Building Permit:

(The Planning Board Secretary's initials and date shall be placed in the space below to indicate that the condition has been satisfied.)

- _____ 1. The Applicant shall submit documentation confirming that the North Castle Highway Department has issued permits for all work in the Kent Place right-of-way.
- _____ 2. The applicant shall obtain sewer and water service connection permits from the Town Water & Sewer Department
- _____ 3. As shown on FEMA Firm Panels 36119C0164F and 36119C0277F, effective September 28, 2007, the property is located partially within a FEMA Floodplain and Floodway, Zone AE, with an Elevation of 379. A Floodplain Development Permit will be required.
- _____ 4. The Applicant shall depict all proposed signage – free standing, building mounted and others to the satisfaction of the Building Department. The Applicant shall submit an exhibit depicting conformance with Section 355-16 of the Town Code.
- _____ 5. All proposed building/site signage will require ARB approval.

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- _____ 6. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
- _____ 7. The proper construction type stickers shall be affixed to the building to the satisfaction of the Building Department.
- _____ 8. The submission of a complete set of building plans for review and approval by the Town Building Inspector prior to the issuance of a building permit.
- _____ 9. The applicant shall submit an engineering inspection fee equal to 3% of the estimated cost of construction.
- _____ 10. Payment of all outstanding fees, including professional review fees.

Prior to the Issuance of a Certificate of Occupancy/Compliance:

(The Planning Board Secretary's initials and date shall be placed in the space below to indicate that the condition has been satisfied.)

- _____ 1. A Knox Box shall be installed at the main entrance to the building to the satisfaction of the Building Department.
- _____ 2. The fire department shall walk through during and post construction to review the fire safety system for the building to the satisfaction of the Building Department.
- _____ 3. Prior to the issuance of a Certificate of Occupancy/Compliance, the actual construction, installation and implementation of all landscaping (on and off-site) shall be certified by a Licensed Landscape Architect as being in compliance with the approved plans and conditions, at the sole cost and expense of the applicant.
- _____ 4. The applicant shall submit documentation demonstrating that all conditions of the NYSDOT Commercial Access Highway Work Permit have been satisfied to the satisfaction of the Town Engineer.
- _____ 5. The applicant shall submit documentation demonstrating that all conditions of the Water & Sewer Permits have been satisfied, to the satisfaction of the Town Water & Sewer Department.
- _____ 6. The applicant shall submit documentation demonstrating that all conditions of the Highway Street Opening Permit have been satisfied, to the satisfaction of the Town Highway Department.
- _____ 7. The submission to the Town Building Inspector of an "As Built" site plan.

Other Conditions:

1. Prior to the start of construction and throughout the construction period, area of disturbance lines shall be clearly delineated in the field with snow fence or another demarcation acceptable to the Building Department and Town Engineer, which shall be placed around the entire proposed construction area. Except as necessary to provide mitigation plantings, no encroachment beyond these limits by workers or machinery shall be permitted.
2. Grading and clearing and other construction-related activities shall take place only within the delineated area of disturbance lines. These area of disturbance lines represent the maximum limits of construction activities. Every attempt shall be made to further reduce grading and clearing activities within the area of disturbance lines by maintaining natural vegetation and topography wherever practicable.
3. Prior to the commencement of any site work, the Applicant shall stake the location of the proposed construction for inspection and approval by the Building Department and Town Engineer.
4. All soil erosion and sedimentation control measures shown on this plan shall be in place prior to the start of any site work. The Building Department and Town Engineer shall have inspected the installation of all required soil erosion and sedimentation control measures prior to the authorization to proceed with any phase of the site work.
5. Throughout the construction period, a qualified professional retained by the Applicant shall, on at least a weekly basis, prior to any predicted rain event and after any runoff-producing rain event, inspect the soil erosion and sedimentation control measures to ensure their proper functioning. Soil shall be removed from the silt fence when bulges develop in the fence in accordance with Westchester County recommendations. Records shall be kept onsite and made available for review by Town personnel. Inspections shall be in accordance with the NYSDEC Phase II regulations.
6. If the Applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, he shall report such conditions immediately to the Building Department and Town Engineer. The Applicant may submit, if he so desires, his recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. The Building Department, without unnecessary delay, shall investigate the condition or conditions, and shall either approve the Applicant's recommendations to correct the conditions, order a modification thereof, or issue his own specifications for the correction of the conditions. In the event of the Applicant's disagreement with the decision of the Building Department, or in the event of a significant change resulting to the site plan or

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any change that involves the wetlands regulated areas, the matter shall be decided by the Planning Board. Any such conditions observed by the Planning Board or its agents shall be similarly treated.

7. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
8. The applicant shall provide sedimentation and erosion control measures to the satisfaction of the Town Engineer and in accordance with the measures set forth in the Westchester County Best Management Practices for Construction and Related Activities.
9. All landscaping shown on this plan shall be maintained in a vigorous growing condition throughout the duration of the use. All plants not so maintained shall be replaced with new plants of comparable size and quality at the beginning of the next immediately following growing season.

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APPLICANT, agreed and understood as to contents and conditions, including expiration, contained herein

Date

Merrie Hughes R/T,

Date

Armonk Levine LLC

Date

Armonk Smith LLC

Date

Nadine Kent Trust

Date

NY Dealer Stations LLC

NORTH CASTLE PLANNING OFFICE,
as to approval by the North Castle Planning Board

Date

Valerie B. Desimone, Planning Board Secretary

KELLARD SESSIONS CONSULTING
As to Drainage and Engineering Matters

Date

Joseph M. Cermele, P.E.
Consulting Town Engineer

STEPHENS BARONI REILLY & LEWIS LLP
As to Form and Sufficiency

Date

Roland A. Baroni, Jr. Esq., Town Counsel

NORTH CASTLE PLANNING BOARD

Date

Christopher Carthy, Chairman