



**TOWN OF NORTH CASTLE**  
**WESTCHESTER COUNTY**  
**17 Bedford Road**  
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**PLANNING BOARD**  
**Christopher Carthy, Chair**

## **RESOLUTION**

**Action:** Preliminary Subdivision Plat Approval  
**Application Name:** 82-84 Whippoorwill Road E Lot Line Change [2020-021]  
**Owner:** Joseph DiPalma, Rebecca Barrett, James Shallo, Rose Shallo  
**Applicant:** Merritt Capital and Consulting LLC  
**Designation:** 107.02-2-20 & 107.02-2-21  
**Zone:** R-2A and R-1.5A Zoning Districts  
**Acreage:** 62,654 square feet (total)  
**Location:** 82 & 84 Whippoorwill Rd East  
**Date of Approval:** September 13, 2021  
**Expiration Date:** March 13, 2022 (6 Months)

WHEREAS, application dated May 25, 2020 for preliminary subdivision plat approval was submitted to the Planning Board and the application fees were paid; and

WHEREAS, the application consists of the following drawings:

- Plan entitled "Preliminary Lot Line Adjustment Plat," dated April 8, 2020, prepared by Badey & Watson Surveying & Engineering, P.C.
- Plan entitled "Final Lot Line Adjustment Plat," dated May 14, 2020, last revised August 5, 2021, prepared by Badey & Watson Surveying & Engineering, P.C.

WHEREAS, the Applicant is seeking approval of a proposed lot line realignment that would alter the existing common lot line in the area of the former Old Whippoorwill Road by transferring 3,317 s.f. from 82 Whippoorwill to 84 Whippoorwill.; and

WHEREAS, the transfer will result in 82 Whippoorwill decreasing in size from 0.948 to 0.872 acres and 84 Whippoorwill increasing in size from 0.490 to 0.566 acres; and

WHEREAS, as the lot size of 82 Whippoorwill is being reduced, resulting in an increase of the non-conformity, a variance is required from the Zoning Board of Appeals; and

WHEREAS, the Applicant obtained the required lot area variance from the Zoning Board of Appeals on September 3, 2020; and

WHEREAS, two easements are required to be filed with the Westchester County Clerk; and

WHEREAS, the first easement is a common driveway easement between DiPalma and Shallo; and

WHEREAS, the second easement is between DiPalma and their neighbors who reside at 88 Whippoorwill Road E., Scott Univer and Karen Mesberg to accommodate that portion of the detached garage and stairs located on DiPalma's property that encroach onto 88 Whippoorwill Road E.; and

WHEREAS, no new building lots are proposed; and

WHEREAS, the proposed subdivision will not result in the removal of Town-regulated trees; and

WHEREAS, the proposed subdivision will not result in the disturbance to Town-regulated steep slopes; and

WHEREAS, the proposed subdivision will not result in the disturbance to any Town-regulated wetland or Town-regulated wetland buffer; and

WHEREAS, the applicant submitted a short Environmental Assessment Form (EAF) in connection with the application dated May 25, 2020; 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 determined to conduct an uncoordinated SEQRA review; and

WHEREAS, the Planning Board has evaluated the proposed total site disturbance; and

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

WHEREAS, the Planning Board has received and considered comments from the public, Town Attorney, Town Engineer and Town Planner; and

WHEREAS, the requirements of the Land Subdivision Regulations, the Zoning Ordinance and the *Town of North Castle Comprehensive Plan* have been met by the application; and

WHEREAS, under the Town Law the approval of said preliminary subdivision plat by this Planning Board does not affect the power of the Town to change zoning regulations, nor act as an assurance of the granting of any building permits;

NOW THEREFORE BE IT RESOLVED, that pursuant to Section 275-13 of the Town Code, the Planning Board waives the subdivision public hearing requirement; and

BE IT FURTHER RESOLVED, that based upon its review of the full environmental record 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 preliminary subdivision plat, as described herein, is conditionally approved, subject to compliance with the following conditions and modifications; and

BE IT FURTHER RESOLVED, that this preliminary subdivision plat approval shall expire six months from the date of this resolution unless an application for final subdivision plat approval is submitted to the Planning Board prior to the end of such time period or unless a written request for an extension of preliminary subdivision plat is granted by the Planning Board.

**Conditions to be Completed Before the Final Plat is Signed**

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

- \_\_\_\_\_ 1. The Δ Δ symbol, on the plat, regarding the lack of necessity for a lot area variance should be removed and the chart updated to reflect that a variance is required. The chart should also note the date the variance was issued by the ZBA.
- \_\_\_\_\_ 2. The sanitary services on both lots shall be depicted to the satisfaction of the Town Engineer.
- \_\_\_\_\_ 3. The submitted easement agreements shall be prepared to the satisfaction of the Town Attorney.
- \_\_\_\_\_ 4. Payment of all applicable fees, including any outstanding consulting fees.
- \_\_\_\_\_ 5. The applicant shall furnish the necessary documentation confirming that all taxes assessed against the property have been paid.
- \_\_\_\_\_ 6. The Applicant shall secure approval and endorsement of the plat by the Westchester County Department of Health. All plans submitted to the Westchester County Department of Health for review and approval shall reflect the identification of all wetland boundaries and their respective surrounding regulated areas. A copy of the integrated plot plan containing the endorsement of the Westchester County Department of Health shall be submitted to the Town Engineer prior to the signing of the final linen.
- \_\_\_\_\_ 7. The applicant shall produce a Final Subdivision Plat in accordance with the provisions of Section 275-33 of the North Castle Land Subdivision Regulations, and Final Construction Plans in accordance with 275-34 of the Town Land Subdivision Regulations.

**Other Conditions:**

1. All references to "the Applicant" shall include the Applicant's successors and assigns.

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

Date	Joseph DiPalma, owner
Date	Rebecca Barrett, owner
Date	James Shallo, owner
Date	Rose Shallo, owner
Date	Merritt Capital and Consulting LLC, applicant

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

Date	Valerie Desimone, Planning Board Secretary Certified as Approved by the North Castle Planning Board
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KELLARD SESSIONS CONSULTING  
As to Drainage and Engineering Matters

Date	Joseph M. Cermele, P.E. Consulting Town Engineer
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STEPHENS BARONI REILLY & LEWIS LLP  
As to Form and Sufficiency

Date	Roland A. Baroni, Jr. Esq., Town Counsel
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NORTH CASTLE PLANNING BOARD

Date	Christopher Carthy, Chair
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