


**MEMORANDUM**

TO: North Castle Planning Board

CC: North Castle Conservation Board  
Adam Kaufman, AICP  
Mark Mosello  
Anthony Veneziano, Esq.  
Pete Gregory, P.E.

FROM: John Kellard, P.E.   
Kellard Sessions Consulting  
Consulting Town Engineers

DATE: December 9, 2021  
**Updated March 24, 2023**

RE: Mark Mosello (23 Banks Design Group, LLC)  
23 Bedford-Banksville Road  
Section 102.04, Block 1, Lots 8, 9, 15 & 16

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As requested, Kellard Sessions Consulting has reviewed the Site Plan, Change of Use and Special Permit Application materials submitted in conjunction with the above-referenced project. The 10.816 acre project site (Tax Lots 102.04/1/8, 9, 15 & 16) is located along the westerly side of Bedford-Banksville Road. The site includes a 15,525 s.f. building, paved and gravel/dirt parking adjacent to the building and a site contractor's yard. Two (2) curb cuts presently exist at Bedford-Banksville Road, located north and south of the building.

The project site is zoned GB-B – Central Business-Banksville and GB – General Business. It is located within the FEMA Zone A Special Flood Hazard Area and includes New York State Department of Environmental Conservation (NYSDEC) regulated wetlands (K-41) and its regulated buffer setback.

The application requests a change of use for the existing building to office and storage, with 5,175 s.f. designated for office use. The property, according to the application, has a Westchester County Department of Health (WCHD) restriction due to the limited sewage treatment available on-site, of sixteen (16) employees. The application provides that 37 parking spaces are required for the office/storage use, however, the applicant believes only 15 parking spaces are necessary. The applicant is proposing to provide 18 parking spaces and two (2) loading spaces, with 19 spaces to be land-banked. The southern driveway

would service the office/storage parking area. The applicant also proposes to protect existing utilities from flooding.

The application also notes the applicant's requests to bring the contractor's yard into compliance. Little detail is provided on this proposal, except that the contractor's yard would be accessed from the northern driveway.

**The applicant has submitted a revised application which proposes the removal of the contractor's yard, establishment of a retail center with outdoor storage of masonry product and equipment, as well as reuse of the existing main building.**

Our comments are outlined below.

#### **GENERAL COMMENTS**

1. A wetland delineation was performed by Paul Jaehnig on September 27, 2019 and is included on the property survey provided by the applicant. The boundary appears to be generally similar to that provided in 1997 when the contractor uses within the area were reviewed in regard to wetland and watercourse impacts. The application should be referred to the Town Wetland Consultant for review and confirmation of the delineation. NYSDEC and local wetland permitting appears likely.

**The North Castle Conservation Board has recommended the approval of the project based on the applicant's statement that he would remove the contractor's yard and restore the wetland and wetland buffer area. The Conservation Board's approval was conditional on the applicant updating the mitigation plan to specify soils to be removed from the contractor's yard and the proposed landscape mitigation. This should include the removal of all soils which have been placed over the years over the underlying wetland. The applicant should prepare a grading plan which depicts the proposed elevations for the area. Cross sections through the contractor's yard should illustrate the volumes to be removed and provides a clear understanding of the scope of work.**

**The Conservation Board was also concerned that contaminants within the soils could hamper the recovery of the wetland and its buffer. The Conservation Board therefore conditioned their approval on the applicant performing soil testing within the contractor's yard. Since equipment and truck storage and repair took place on-site over many decades, the soil testing should be expanded into the proposed masonry retail and material storage area adjacent to the contractor's yard. The Planning Board should decide whether the Town's Geotechnical Consultant should provide guidance on the testing protocol and perform a review of the laboratory results.**

**The project plans should also be updated to clarify the existing improvements within the contractor's yard which are proposed for removal. Details should also extend beyond the existing wetland setback and explain how portions of the contractor's yard beyond the setback will be restored. Grading and landscaping of this area should also be explained (see 9., 10. And 11. below).**

**The proposed work is adjacent to a NYSDEC regulated wetland. A NYSDEC Wetland Permit will likely be required. The applicant should update the Planning Board on the status of the NYSDEC wetland application.**

**The Conservation Board Approval was also conditional on the applicant preparing a long-term wetland mitigation monitoring plan for review and approval. A cost estimate should be included which outlines the costs to conduct annual monitoring of the mitigation and preparation of annual reports.**

2. The applicant notes the Westchester County Department of Health (WCHD) employee restriction of 16 team persons. The applicant should provide the Town with copies of the Health Department determination. Also, it would be helpful to understand the location of the bathrooms on the site, including what facilities are available at the contractor's yard and how many employees work at the contractor's yard.

**The applicant had previously informed the Planning Board that they had submitted the proposed project to the WCHD for their determination whether the proposed change of use, within the two (2) buildings, is in conformance with prior approvals which limits the septic system's use to 16 persons. The applicant should provide the Planning Board with an update on the WCHD determination.**

**The site plan shows a new sanitary sewer service between the renovated stone masonry retail building and existing septic tank/pump chamber to the south. The applicant should provide the WCHD Approval of the proposed connection. The applicant should confirm no additional piping or septic system improvements are required to provide service to the buildings.**

**The applicant should also document on the plans the location of the water supply servicing each building and the existing/proposed location of water services.**

3. The applicant is proposing 37 parking spaces and two (2) loading spaces, of which 19 spaces would be land-banked. The applicant will need to provide detailed design of these improvements, inclusive of layout, grading, lighting, drainage, erosion and sediment controls and construction details.

The applicant will also need to provide stormwater designs required to mitigate quality and quantity impacts from runoff.

**The applicant has not submitted construction details previously requested. The previously requested list of construction details should be expanded to include the dumpster pad and enclosure, concrete walls creating the outdoor storage bins, driveway and parking space asphalt details, wood fencing, as well as any curb cut improvements required by the Westchester County Department of Public Works.**

**The applicant has not submitted a stormwater analysis for the project. A Stormwater Pollution Prevention Plan (SWPPP) will need to be prepared which addresses erosion and sediment controls, water quality mitigation and water quantity mitigation of runoff from the project site.**

**A Notice of Intent (NOI) and MS4 Acceptance Form will need to be filed with the NYSDEC. The applicant should submit the SWPPP, NOI and MS4 Acceptance Form for review.**

**The applicant will need to perform soil testing in the vicinity of the mitigation systems to be witnessed by our office. Test locations and results should be shown on the plans and within the SWPPP. Please contact our office to schedule testing.**

4. The applicant proposes to maintain the two (2) existing curb cuts at the site, the south entrance serving the office/storage parking and loading area and the northern entrance serving the contractor yard. Upon development of more detailed site-related improvements, the change of use should be forwarded to Westchester County Department of Public Works for review, comment and permitting of the two (2) curb cuts.

**The applicant should update the Planning Board regarding the status of the Westchester County Department of Public Works Curb Cut Change of Use application review. Any proposed improvements at the existing curb cuts, required by the Westchester County Department of Public Works should be documented on the project plans.**

5. The applicant provides their desire to bring the contractor's yard into compliance. There is little information provided in regard to the contractor's yard, present or proposed improvements, activities, etc. As an initial step, the applicant should update the application to clarify the existing and proposed activities within the yard, locations of truck parking, offices/trailers, material storage, fuel storage and dispensing, equipment repair, etc. The applicant's proposal should address stormwater controls to protect surface and groundwater.

**The project has been revised to include the complete removal of the contractor’s yard. The applicant should provide a detailed explanation of the proposed work required to remove the yard. This should include the specifics of what improvements will be removed, removal of fill placed over the existing wetlands, proposed grading and restoration of the complete area. Soil testing results will need to be submitted in order to understand whether the exporting of the material may proceed under a Beneficial Use Status or whether the material must be handled in another acceptable manner.**

6. The project site is located within FEMA Zone A Special Flood Hazard Area. The applicant notes that improvements will be proposed to protect HVAC, fuel storage, potable water and electrical systems from flooding. A Floodplain Development Permit will be required.

**The applicant is proposing to floodproof the existing building which is located within the FEMA A Flood Zone. The Floodplain Development Permit will be processed by the Town Building Department. The applicant will need to submit plans to the Building Department which outlines measures to be employed to floodproof the structure and protect utilities servicing the structures. If improvement costs of either of the two (2) structures exceed 50% of the value of the existing structure, then the structure must meet full compliance with FEMA floodplain regulations.**

7. The applicant proposes to renovate an existing structure within the rear of the property into a retail center. The center includes a stone masonry retail area with outdoor storage bins and an equipment area. The applicant should clarify on the plans and for the Planning Board the products and materials to be stored outside, confirm that outdoor storage is limited to the storage bins and document what equipment will be stored within the equipment area.
8. The applicant is proposing a planting plan which includes a row of White Pines at the wetland setback, plantings along the northern property line and plantings south of the retail center. This planting plan is not sufficient for restoration of the yard.
9. Once the proposed grading is provided for the entire contractor’s yard, a comprehensive planting plan for the entire disturbance area within the 100’ wetland setback should be developed. A limited mow zone may be considered for a portion of the 100’ wetland setback, however, the introduction of native trees and shrubs within the 100’ wetland setback should also be included in the mitigation plan.
10. A “proposed 25’ wide natural vegetative buffer” is proposed immediately adjacent to the wetland boundary. There is no mention of specific plant species for this area. At a minimum,

**this vegetative buffer should be extended along the west side of the “area of non-retail outdoor nursery sales”, between the “landscape boulders and wetland”.**

- 11. There are three (3) rain gardens proposed within the 100’ wetland setback. Sizing for these rain gardens will need to be provided, and identify specific areas that will drain to these practices. Depending on the results of site-specific soil testing (see 3., above), specific plant material will need to be chosen for the rain gardens. A specific planting plan should be provided for the rain gardens.**
- 12. The applicant should submit a cost estimate for the establishment of a guarantee to ensure the completion of all proposed wetland mitigation.**
- 13. The applicant should submit a cost estimate for the establishment of an inspection fee for the project. The estimate should include all site and landscape improvements.**

As additional information becomes available, we will continue our review. It is noted that an itemized response to all comments will facilitate completeness and efficiency of review.

**PLANS REVIEWED, PREPARED BY DTS PROVIDENT, DATED MARCH 13, 2023:**

- Site Plan (C-101)
- Landscape Plan (C-201)

JK/dc