



TOWN OF NORTH CASTLE
WESTCHESTER COUNTY
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PLANNING BOARD
Christopher Carthy, Chair

RESOLUTION

Action:	Site Plan and Wetland Permit Approvals [2020-032]
Application Name:	23 Bedford Banksville Road Site Plan
Owner:	Greenwich Realty Group LLC
Applicant:	23 Banks Design Group, LLC
Designation:	102.04-1-9, 102.04-1-15, 102.04-1-8, 102.04-1-16
Zone:	CB-B and GB Zoning Districts
Acreage:	10.816 acres
Location:	23 Bedford Banksville Road
Date of Approval:	February 26, 2024
Expiration Date:	February 26, 2025 (1 Year)

WHEREAS, the Planning Board has received an application for the occupancy of an existing 15,500 square foot multi-tenanted building consisting of office and storage uses; and

WHEERAS, the Applicant previously proposed a self-storage use that has been removed from the plan; and

WHEERAS, the Applicant previously proposed a Buildings Materials Sales Yard that has been removed from the plan; and

WHEREAS, the subject property is zoned CB-B fronting Bedford Banksville Road and GB in the rear of the property; and

WHEREAS, surrounding land uses consist of commercial development along Bedford Banksville Road; and

WHEREAS, the property is approximately 4.28 acres in size and lies within the CB-B and GB Zoning Districts; and

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

- Plan labeled "C-102," entitled "Site Plan," dated October 21, 2021, last revised February 16, 2024, prepared by DTS Provident Design Engineering, LLP.
- Plan labeled "C-501," entitled "Landscape Plan," dated January 10, 2022, last revised February 16, 2024, prepared by DTS Provident Design Engineering, LLP.
- **SUBMISSION OF FLOOR PLANS AND ELEVATIONS OF EXISTING BUILDING.**

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WHEREAS, the application was referred to the Westchester County Planning Board pursuant to § 239-m of New York State General Municipal Law (GML) as part of the Town Board special use permit review; and

WHEREAS, the Planning Board did not receive any comments from Westchester County; 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 is required to evaluate the proposed regulated activity in terms of the findings, intent and standards of Chapter 340; and

WHEREAS, the Conservation Board, with respect to the Building Materials Sales Yard recommended approval of the wetlands permit in a memorandum to the Planning Board dated July 26, 2022 subject to certain conditions; and

WHEREAS, the Conservation Board, with respect to the current proposal recommended approval of the wetlands permit in a memorandum to the Planning Board dated XXXX subject to certain conditions; and

WHEREAS, the Applicant obtained Architectural Review Board approval on October 18, 2023; and

WHEREAS, the Planning Board opened, on November 13, 2023 and closed on February 26, 2024, pursuant to §355-44 of the North Castle Code, 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 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 Banksville 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

WHEREAS, the Planning Board did not receive responses from any of the emergency service providers; and

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

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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 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 mitigation plan shall be updated to clarify the soils to be removed from the existing contractor's yard, as well as the proposed landscaping mitigation. The area is designated Udorthents soils with a wet substratum. Adjacent soils groups include sun loam and Carlisle much, both hydric soils, which are local wetlands. It is clear that the existing contactor's yard was a wetland, which was filled over the years. Restoration of the yard shall include the removal of all soils placed in the wetlands to the satisfaction of the Town Engineer.

[The cover letter implies that existing fill material will be left on the site. If this is the case the Applicant will need to obtain a fill permit from the Building Department. Since the Applicant can't demonstrate the origin of the fill material, the Applicant will need to demonstrate that the fill material is compliant the appropriate Soil Cleanup Objectives to the satisfaction of the Town's hydrogeologist.]

_____ 2. The site plan shall be revised to include details of the proposed gates to the satisfaction of the Planning Department.

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- _____3. The landscape plan shall be revised eliminate all planting in parking spaces to the satisfaction of the Planning Department. In addition, the site plan shall be revised to eliminate all proposed planting in the Bedford Banksville Road right-of-way to the satisfaction of the Planning Department. Furthermore, the applicant has submitted 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 contractor's yard. 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 shall 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. 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 and should be revised. In general, a more robust landscaping plan should be submitted to the satisfaction of the Planning Department.
- _____4. The site plan shall be revised to indicate whether any fill is proposed to be retained on site to the satisfaction of the Town Engineer. If so, the Applicant will need to demonstrate that the fill is clean and will need to seek a fill permit from the Building Department, the Town Engineer and HES.
- _____5. The site plan shall depict the parking of any commercial vehicles, if proposed. If vehicle storage is proposed, the location of such storage shall be depicted on the site plan to the satisfaction of the Planning Department.
- _____6. The Applicant should submit floor plans for the existing building. Previously, the submitted floor plans depicted storage uses. Storage/warehouse is not a permitted use in the CB-B Zoning District. The Applicant will need to demonstrate that the proposed storage is an accessory use customarily incident to a permitted principal use which is permitted in the CB-B Zoning District.
- _____7. The off street parking analysis contains storage uses, which is not permitted in the CB-B Zoning District. Storage uses will need to be eliminated or the Applicant will need to seek a variance from the Zoning Board of Appeals. In the alternative, the Applicant will need to demonstrate that all proposed storage uses are proposed to occur in the GB Zoning District.
- _____8. The site plan shall be revised to demonstrate that the proposed parking area meets the minimum requirements of Section 355-56 of the Town Code with respect to parking space size, location, access drives and aisles to the satisfaction of the Town Engineer.

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- _____ 9. A site plan shall be submitted that provides for outdoor lighting meeting the requirements of Section 355-45.M of the Town Code to the satisfaction of the Planning Department.
- _____ 10. The original 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. The site plan shall be revised to depict the removal of all soils which have been placed over the years over the underlying wetland to the satisfaction of the Town Engineer. The applicant shall prepare a grading plan which depicts the proposed elevations for the area and cross sections through the contractor's yard shall illustrate the volumes to be removed and provides a clear understanding of the scope of work to the satisfaction of the Town Engineer.
- _____ 11. The Conservation Board was 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 shall be expanded into the proposed self-storage warehouse area adjacent to the contractor's yard. The Town's Geotechnical Consultant shall provide guidance on the testing protocol and perform a review of the laboratory results. If testing has already been performed, then the applicant shall share the results with the Town's geotechnical consultant.
- _____ 12. The proposed work is adjacent to a NYSDEC regulated wetland. The Applicant shall provide documentation that a NYSDEC Wetland Permit was obtained or submit documentation demonstrating that a permit is not required to the satisfaction of the Town Engineer.
- _____ 13. The existing building within the former contractors yard will be removed. The site plan shall be revised to provide documentation/confirmation regarding how the existing septic tank and pump chamber will be abandoned to the satisfaction of the Westchester County Department of Health.
- _____ 14. The site plan shall be revised to depict the location of the water supply servicing each building and the existing/proposed location of water services to the satisfaction of the Town Engineer.
- _____ 15. A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared which addresses erosion and sediment controls, water quality mitigation and water quantity mitigation of runoff from the project site to the satisfaction of the Town Engineer. A Notice of Intent (NOI) and MS4 Acceptance Form shall be filed with the NYSDEC. The applicant shall submit the SWPPP, NOI and MS4

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Acceptance Form to the satisfaction of the Town Engineer. The applicant shall perform soil testing in the vicinity of the mitigation systems to be witnessed by Town Engineer. Test locations and results shall be shown on the plans and within the SWPPP to the satisfaction of the Town Engineer.

- _____16. The applicant shall obtain a Curb Cut Permit from the Westchester County Department of Public Works.
- _____17. The applicant notes the Westchester County Department of Health (WCHD) employee restriction of 16 team persons. The applicant shall provide the Town with copies of the Health Department determination.
- _____18. 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, soil removal and disposal and wetland mitigation improvements required, with quantities certified by the applicant's engineer, to the satisfaction of the Town Engineer.
- _____19. Payment of all applicable fees, including any outstanding consulting fees.
- _____20. 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.
- _____21. 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. 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 wetland mitigation plantings, maintenance and monitoring program, 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 wetland mitigation and monitoring to the satisfaction of the Town Engineer.

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- _____3. If curb cut improvements are required by the Westchester County Department of Public Works, the applicant shall submit such permit to the satisfaction of the Town Engineer.
- _____4. The property was located within a FEMA Floodplain. The Building Department shall issue the required floodplain development permit. 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 exceed 50% of the value of the existing structure, then the structure must meet full compliance with FEMA floodplain regulations. Regardless, whether the project is a substantial improvement, all additions and proposed structures must conform with the Floodplain Ordinance.
- _____5. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
- _____6. 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.
- _____7. The applicant shall submit an engineering inspection fee equal to 3% of the estimated cost of construction.
- _____8. 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 to the building to the satisfaction of the Building Department.
- _____2. If a curb but permit from the Westchester County Department of Public Works is required, the Applicant shall submit documentation demonstrating that the permit has been closed out to the satisfaction of the Town Engineer.
- _____3. Prior to the Issuance of a Certificate of Occupancy/Compliance, the actual construction, installation and implementation of all landscaping and wetland mitigation shall be certified by a Licensed Landscape Architect, retained by the applicant, as being in compliance with the approved plans and conditions, at the sole cost and expense of the applicant.
- _____4. The submission to the Town Building Inspector of an "As Built" site plan.

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Other Conditions:

1. The application of herbicides shall be prohibited on the property
2. The application of pesticides shall be prohibited on the property.
3. Fuel storage and dispensing shall not be permitted on the property.
4. Mechanical equipment repair or service shall not be permitted on the property.
5. Uses on the property shall not be expanded beyond that depicted on the site plan without amended approval of the Town Board and Planning Board.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.

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11. 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 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.
12. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
13. 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.
14. 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

Greenwich Realty Group LLC

Date

23 Banks Design Group, LLC

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

Date

Joseline Flores, Planning Board Secretary

KSCJ 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