



PLANNING BOARD
Christopher Carthy, Chair

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

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RESOLUTION

| | |
|--------------------------|---|
| Action: | Site Plan Approval |
| Application Name: | 80 Lafayette Avenue [#2020-038] |
| Owner/Applicant: | Joseph Annunziata, managing member Nunz Funding LLC |
| Designation: | 122.12-1-11 |
| Zone: | IND-A Zoning District |
| Acreage: | 0.9 |
| Location: | 80 Lafayette Avenue |
| Date of Approval: | February 22, 2021 |
| Expiration Date: | February 22, 2022 (1 Year) |

WHEREAS, the Applicant is seeking to legalize the existing chemical warehouse on the site; and

WHEREAS, the Applicant, in 2016, obtained site plan approval for a second floor addition, but that site plan was never brought to fruition; therefore, the Applicant is seeking site development plan approval for a change of use from the last approved use, bakery, to the current warehouse use; and

WHEREAS, the property is 0.9 acres and is located at 80 Lafayette Avenue within the IND-A Zoning District; and

WHEREAS, the site is currently developed with a warehouse/office building; and

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

- Plan labeled "T-001.00," entitled "Title Sheet," dated October 27, 2020, prepared by DRPILLA Consulting Engineers.
- Plan labeled "SP-001.00," entitled "Existing Site Plan," dated October 27, 2020, prepared by DRPILLA Consulting Engineers.
- Plan labeled "SP-002.00," entitled "Proposed Site Plan," dated October 27, 2020, prepared by DRPILLA Consulting Engineers.
- Plan labeled "A-100.00," entitled "Existing Floor Plan," dated October 27, 2020, prepared by DRPILLA Consulting Engineers.
- Plan labeled "A-101.00," entitled "Storage Space Layout," dated October 27, 2020, prepared by DRPILLA Consulting Engineers.
- Plan labeled "A-200.00," entitled "Building Section, Elevations & Details," dated October 27, 2020, prepared by DRPILLA Consulting Engineers.

- Plan labeled “A-500.00,” entitled “Photometric Plan,” dated October 27, 2020, prepared by DRPILLA Consulting Engineers.

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 October 19, 2020; and

WHEREAS, the Westchester County Planning Board stated that the project was a matter for local determination; however, the County stressed the importance of protecting against any possible chemical spillage affecting the nearby Bronx River, whether through direct surface flow or infiltration through the storm drain; and

WHEREAS, the town retained HydroEnvironmental Solutions, Inc. (HES) to review the subject application with respect to issues associated with the proposed chemical storage at the proposed facility

WHEREAS, the Applicant is required to follow all health and safety and handling requirements listed under OSHA and SARA at all times; and

WHEREAS, HES reviewed the Applicant’s submitted reports related to bulk chemical storage and recommended that a Spill Prevention, Control and Countermeasure Plan (SPCCP) and a Site Specific Health and Safety Plan be compiled and maintained at the facility; and

WHEREAS, site workers in the warehouse portion of the facility must meet all OSHA required health and safety training including 24-hour HAZWOPER technician training and annual refresher training requirements pursuant to 29CFR1910.120(q); and

WHEREAS, the Planning Board, pursuant to § 355-44 of the North Castle Code, conducted a duly noticed public hearing, which was opened on February 22, 2021, with respect to the site plan application, 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 a Type II Action pursuant to the State Environmental Quality Review Act (SEQRA); and

WHEREAS the site plan was forwarded to the Chief of Police, Fire Inspector and the North While Plains 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 issue deemed important to providing emergency services; and

WHEREAS, vehicles and trucks would require the backing of vehicles into the street right-of-way, and

WHEREAS, the Town Code prohibits such backing up into the street; and

WHEREAS, the Applicant obtained the required variance from the Zoning Board of Appeals on January 7, 2021; and

WHEREAS, the site does not provide the minimum required amount of off-street parking; and

WHEREAS, a five space off-street parking variance was issued by the Zoning Board of Appeals on January 7, 2021; and

WHEREAS, based upon Plan A-500 some portions of the lighting plan exceed the maximum lighting thresholds in Section 355-45.M of the Town Code; and

WHEREAS, the Applicant has secured a variance from the Zoning Board of Appeals on January 7, 2021; 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

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 the application for site plan approval, as described herein, be and is hereby conditionally approved, subject to the following conditions and modifications; and

BE IT FURTHER RESOLVED that, upon consideration of all factors entering into the loading and unloading needs of each use, the Planning Board has determined that additional on-site loading spaces are not required beyond that depicted on the site plan; and

BE IT FURTHER RESOLVED that, the site plan approval shall expire one 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 correct all existing violations on the property to the satisfaction of the Building Department.
- _____ 2. The Applicant shall prepare Operating Permit parameters and documentation to the satisfaction of the Town of North Castle Building Department Consultant.
- _____ 3. The site plan shall be revised to depict spill prevention and mitigation measures to avoid the possibility of potential discharges of chemicals to the exterior of the building, which could subsequently reach the surrounding properties and ultimately waterways via the storm sewer system to the satisfaction of the Town Engineer.
- _____ 4. The Applicant shall prepare a procedure to notify the NYSDEC, North Castle Building Department and North White Plains Fire Chief of the addition of any new ingredient to the stored compound list to the satisfaction of the Building Inspector.
- _____ 5. The Applicant shall prepare a comprehensive Health and Safety Plan to the satisfaction of HES. The plan shall be maintained on-site.
- _____ 6. Pursuant to Section 127-17 of the Town Code, the applicant shall submit a detailed quantity cost estimate for all site improvements proposed, with the quantities certified to by the applicant's engineer, to the satisfaction of the Town Engineer.
- _____ 7. The Site Plan shall be revised to clearly indicate the various area variances obtained and the date granted, to the satisfaction of the Town Engineer.
- _____ 8. Payment of all applicable fees, including any outstanding consulting fees.
- _____ 9. The Applicant shall submit to the Planning Board Secretary two sets 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.
- _____ 10. 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. SDS sheets for all chemicals and quantity proposed to be stored in the warehouse shall be submitted to the Building Department, Fire Department and Police Department and updated annually by the Applicant.
- _____ 2. The Building Department shall determine that the building structure and systems meet all applicable codes relating to the storage of chemicals, and in light of the specific chemicals proposed to be stored.
- _____ 3. The Building Department shall determine whether additional building venting is needed based upon the amount and type of chemicals proposed to be stored in the warehouse.
- _____ 4. The Applicant shall submit documentation from the design professional confirming that all federal, state and local regulations have been satisfied.
- _____ 5. The Building Department shall determine whether locked or other specially equipped storage areas shall be required, based upon the amount and type of chemicals proposed to be stored in the warehouse.
- _____ 6. Submission of evidence of having secured insurance to protect against the financial impacts of potential on-site or off-site environmental impacts that might be associated with the proposed use. Such insurance shall comply with the following requirements:

General

All insurers must be licensed and admitted in the State of New York and have a current Best's rating of not less than A , VIII.

The policy shall be endorsed to provide the Town of North Castle sixty (60) days advance written notice by certified mail, return receipt requested, for any cancellation or material reduction of coverage.

The policy shall be renewed annually. The Applicant shall be responsible for such renewals until the Town of North Castle gives written direction the below policies may be cancelled.

All policies must be on an occurrence basis with per claim deductibles not to exceed \$50,000.

General Liability

Liability insurance coverage shall be obtained on an occurrence basis for limits not less than \$1,000,000 each occurrence and shall include an aggregate limit of not less than \$2,000,000.

Liability insurance coverage shall be obtained in a manner that names the Town of North Castle, their assigns, officers, employees, volunteers, representatives, and agents as an additional insured.

Oamic's insurance policy shall be primary and non contributory to any the Town of North Castle may have.

Includes a waiver of subrogation endorsement including the Town of North Castle, their assigns, officers, employees, volunteers, representatives, and agents.

Environmental Site Liability

The policy shall cover losses arising from or in any way related to pollution conditions, both sudden and non-sudden (gradual), which arise from or in connection with the tenant's operations at the site. The policy shall provide clean-up costs, third party bodily injury and property damage, and defense costs for environmental releases on, at, or migrating from the leased site. In addition, the Environmental Site Liability policy shall have the following minimum limits:

\$10,000,000 per occurrence/per claim

\$10,000,000 Annual Aggregate

Coverage provides shall include the following:

New conditions coverage

Natural resource damages

Transportation coverage

Coverage shall be made primary

Waiver of subrogation in favor the Town of North Castle, their assigns, officers, employees, volunteers, representatives, and agents

Medical monitoring costs

Diminution in property value

Umbrella Liability

The policy limits must be at least \$5,000,000 per occurrence and in the annual aggregate.

Such policy shall provide coverage over General Liability, Automobile, Liability, and Workers Compensation Insurance

- _____ 7. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
- _____ 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. Submission of evidence of having secured insurance that complies with the following requirements:

Automobile

Automobile Liability that includes transportation of pollution materials with limits not less than \$1,000,000 Bodily Injury/Property Damage covering all owned, non owned and hired vehicles. Said policy must include the Town of North Castle, their assigns, officers, employees, volunteers, representatives, and agents as an additional insured and Waiver of Subrogation.

Workers Compensation

Workers Compensation and Employers Liability Policy covering operations in New York State that includes a waiver of subrogation endorsement including the Town of North Castle, their assigns, officers, employees, volunteers, representatives, and agents Employers Liability limits must be unlimited.

- _____ 2. The Applicant shall obtain an Operating Permit pursuant to Section 127-10 of the Town Code.
- _____ 3. The submission to the Town Building Inspector of an "As Built" survey.

Other Conditions:

1. All applicable NYSDEC Chemical Bulk Storage Regulations must be adhered to.
2. Health and safety and handling requirements listed under OSHA and SARA must always be followed at the facility.
3. All employees that work in the warehouse area of the facility must be properly Health and Safety trained including 40-hour HAZWOPER training. The training must be updated annually in accordance with OSHA requirements.
4. The warehouse shall only store NFPA Class III chemicals, or less flammable chemicals. The storage of NFPA Class I and NFPA Class II chemicals shall not be permitted without amended Planning Board approval.
5. Chemical processing, mixing and/or blending shall not be permitted on the property.
6. Outdoor storage of vehicles or materials shall be prohibited without Planning Board site plan approval.
7. Compliance with all applicable federal, state, county and local laws and ordinances and any conditions attached to permits issued thereunder.
8. 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.

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

Date

Joseph Annunziata, managing member Nunz Funding 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