



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

## **RESOLUTION**

**Action:** Site Plan, Steep Slopes, Tree Removal and Wetland Permit Approvals  
**Application Name:** 3 Middle Patent Road [2020-040]  
**Applicant/Owner:** Lisa & David Graff  
**Designation:** 95.03-1-52  
**Zone:** R-2A  
**Acreage:** 2.18 acres  
**Location:** 3 Middle Patent Road  
**Date of Approval:** April 26, 2021  
**Expiration Date:** April 26, 2022 (1 Year)

WHEREAS, the Applicant has submitted a site plan application for the construction of an 18' x 40' swimming pool (with an interior spa) and a bluestone terrace; and

WHEREAS, this project was referred to the Planning Board by the RPRC; and

WHEREAS, the RPRC determined that given the environmental constraints of the property and the amount of proposed disturbance, a detailed review by the Planning Board and the Conservation Board was warranted; and

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

- Plan labeled "S-1," entitled "Preliminary Site Plan," dated December 21, 2020, prepared by Benedek & Ticehurst Landscape Architects & Site Planners, P.C.
- Plan labeled "PL-1," entitled "Preliminary Pool Location Plan," dated December 21, 2020, prepared by Benedek & Ticehurst Landscape Architects & Site Planners, P.C.
- Plan labeled "D-1," entitled "Details," dated December 21, 2020, prepared by Benedek & Ticehurst Landscape Architects & Site Planners, P.C.
- Plan labeled "WM-1," entitled "Wetland Mitigation Plan," dated December 21, 2020, prepared by Benedek & Ticehurst Landscape Architects & Site Planners, P.C.
- Plan labeled "SP-1," entitled "Site Plan," dated February 2, 2021, last revised April 8, 2021, prepared by Benedek & Ticehurst Landscape Architects & Site Planners, P.C.
- Plan labeled "C-101," entitled "Stormwater Mitigation Plan," dated December 21, 2020, last revised April 5, 2021, prepared by Provident Design Engineering.
- Plan labeled "C-102," entitled "Construction Details," dated December 18, 2020, prepared by Provident Design Engineering.

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WHEREAS, the proposed pool, terrace and pool equipment pad are located in the front yard; and

WHEREAS, when pools are located in the front yard they are required to meet three times the setback required for principal structures (150' in the R-2A Zoning District); and

WHEREAS, since the pool is located less than 150 feet from the front property line, the Applicant is required to secure a variance from the Zoning Board of Appeals; and

WHEREAS, the Applicant received the required variance from the Zoning Board of Appeals on April 1, 2021; and

WHEREAS, the site plan depicts the removal of 7 Town-regulated trees; and

WHEREAS, the site plan depicts 2,351 square feet of Town-regulated steep slope disturbance; and

WHEREAS, the project will result 1,763 sq. ft. of disturbance within the wetland buffer; and

WHEREAS, in accordance with Chapter 340 of the Town Code, the Applicant is required to provide 2:1 mitigation for unavoidable disturbance to wetland/wetland buffer, or at least 3,526 square feet of mitigation; and

WHEREAS, the plans indicate 4,200 sq. ft. of wetland buffer mitigation is proposed, which more than meets the code requirements; 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 recommended approval of the requested wetlands permit in a March 25, 2021 memo to the Planning Board; and

WHEREAS, the Planning Board, pursuant to §355-44 of the North Castle Code, conducted a duly noticed public hearing, which was conducted on April 26, 2021 with respect to the wetlands permit application, at which time all those wishing to be heard with respect to the 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 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 the application for site plan, steep slope, tree removal and wetlands permit approvals, as described herein, are hereby conditionally approved, subject to the following conditions and modifications; and

BE IT FURTHER RESOLVED that, this site plan, steep slope, tree removal 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 provide a 5-year Wetland Mitigation Maintenance and Monitoring Plan, as required by as required by Section 340-12 of the Town Code to the satisfaction of the Town Engineer. In addition, the wetland mitigation plan shall be revised to include the requirements of the maintenance and monitoring to the satisfaction of the Town Engineer.
- \_\_\_\_\_ 2. The applicant shall submit a detailed quantity cost estimate for all improvements proposed for the wetland mitigation/restoration plan with the quantities certified by the applicant's Landscape Architect to the satisfaction of the Town Engineer.
- \_\_\_\_\_ 3. 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.
- \_\_\_\_\_ 4. The Applicant shall submit final construction plans for site improvements, excepting improvements relating to the house construction, 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.

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- \_\_\_\_\_5. Payment of all applicable fees, including any outstanding consulting fees, pursuant to the master fee schedule.
  
- \_\_\_\_\_6. 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.

**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 approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
  
- \_\_\_\_\_ 2. The Building Department shall confirm the establishment of the Wetland Mitigation Bond.
  
- \_\_\_\_\_ 3. If Chipping is determined to be necessary in the future, the Applicant will need to secure a chipping permit pursuant to Article II of Chapter 122 of the Town Code from the Building Department.

**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. Payment of all outstanding fees, including professional review fees.
  
- \_\_\_\_\_ 2. Prior to the issuance of a certificate of occupancy/compliance, the actual construction, installation and implementation of all landscaping/mitigation shall be certified by a licensed landscape architect as being in compliance with the approved plans and conditions and the initial wetland maintenance and monitoring report shall be submitted to the Town Engineer, at the sole cost and expense of the applicant.
  
- \_\_\_\_\_ 3. The submission to the Town Building Inspector of an "As Built" site plan.

**Other Conditions:**

- 1. All initial pool fillings (after construction or repair) and all subsequent pre-season yearly pool fillings (not including water loss during the season) shall be completed using off-site trucked in water. In no circumstance shall the public water supply or a private well be used for initial pool fillings and/or pre-season yearly pool fillings.

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2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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

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Planning Board. Any such conditions observed by the Planning Board or its agents shall be similarly treated.

8. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
9. 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.
10. 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

\_\_\_\_\_  
Lisa & David Graff

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