



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

R E S O L U T I O N

Action: Amended Site Plan and Wetland Permit Approvals
Application Name: Amore Pizzeria and Italian Kitchen [2020-049]
Applicant/Owner: 1 Kent Place Inc.
Designation: Section 2, Block 11, Lot 6.-5 (108.03-1-76)
Zone: CB (Central Business) District
Acreage: 0.39 acres
Location: 1 Kent Place
Date of Approval: January 24, 2022
Expiration Date: January 24, 2023 (1 Year)

WHEREAS, the Town of North Castle Planning Board has received site plan and wetlands permit applications to legalize work on the property without the benefit of Planning Board or Building Department approval; and

WHEREAS, legalization requested includes new sheds, coolers and patios; and

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

- Plan labeled "S-1," entitled "Site Plan," dated November 9, 2020, last revised November 22, 2021, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled "WMP-1," entitled "Wetland Mitigation Plan," dated November 1, 2021, last revised November 22, 2021, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.

WHEREAS, in 2013 the Applicant received Planning Board approval for the construction of Amore Pizzeria and Italian Kitchen; and

WHEREAS, in 2015 the Applicant received a site plan amendment regarding a shed on the property; and

WHEREAS, the site plan depicts several zoning non-conformities that include a 6'x4' cooler that is not located entirely on the subject lot, an outdoor patio that does not meet the five foot setback requirement for terraces from the side and rear lot lines pursuant to Section 355-15.A of the Town Code and the existing off-street parking variance will need to be amended to accommodate the additional FAR associated with the new sheds and coolers; and

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

WHEREAS, the application for site development plan approval was referred to the Westchester County Planning Board pursuant to Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the County Administrative Code on November 30, 2020; and

WHEREAS, the plan depicts encroachments on the adjacent shell station with are proposed to remain as part of an existing agreement between the two property owners; and

WHEREAS, the Architectural Review Board approved the proposed amendments on January 19, 2021; and

WHEREAS, 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 provided comments to the Planning Board indicating their conditional support for the plan; and

WHEREAS, the Conservation Board recommends that:

- Create a depression in the wetland mitigation area #1, which would also provide compensatory storage of floodwater during a 100 -year storm event as required by Chapter 177 -Flood Damage Prevention of the Town Code.
- The applicant should clarify the nature of the invasive and unwanted vegetation.
- The applicant should identify the existing trees and their size on the map.
- There will be required stormwater mitigation for the expanded patio. The Project Engineer for the applicant indicated that he met with the Town Consulting Engineer, and they are going to confirm whether the underlying subbase has adequate mitigation capacity.
- Compensatory storage should be provided to mitigate all floodplain impacts including all structures, planters and walls, and include the planned stormwater basin areas. The required and provided flood storage should be recalculated.
- Mitigation areas should be shifted on the north side to center around the trees, to create an appropriate understory of plantings.
- The adjacent wetland is associated with the floodplain, and the seeds proposed to be planted in this area are associated with a different type of wetland that receives more sun, even though some species would thrive in shady areas. We have identified the type of wetland at this location in accordance with the New York Natural Heritage Program, and we recommend that plantings have the characteristics of the "Forested Floodplain" to ensure that restoration plantings are appropriate to the type of conditions that are part of this ecosystem. We recommend that the applicant choose plantings from the list found on the NYSDEC website link Floodplain Forest Guide —New York Natural Heritage Program (nynhp.org), especially areas that are located west of the stream bank.

- Plantings nearest to the wall (trees, hedges and shrubs) are typical of understory plants that thrive in part shade, with the exception of the Winter Red Holly and the applicant should consider changing the species. However, the planting locations shown on the plan may allow for enough sunlight to allow the plants to survive.
- The Board recommends a five (5) year long term wetland mitigation and monitoring plan to ensure that plantings thrive.

WHEREAS, January 24, 2022, the Planning Board conducted 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 Planning Board has found that the proposed action is a Type II Action pursuant to SEQRA; and

WHEREAS, November 30, 2020, the site plan was forwarded to the Chief of Police, Fire Inspector and the Armonk 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 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;

NOW, THEREFORE, BE IT RESOLVED, that the application for amended site plan and wetlands permit approvals, as described herein, be and is hereby conditionally approved, subject to the following conditions and modifications; and

BE IT FURTHER RESOLVED that, this amended 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 site plan shall be revised to create a depression in the wetland mitigation area #1, which would also provide compensatory storage of floodwater during a 100 - year storm event as required by Chapter 177 -Flood Damage Prevention of the Town Code to the satisfaction of the Town Engineer.
- _____ 2. The applicant shall clarify the nature of the invasive and unwanted vegetation to the satisfaction of the Town Engineer.
- _____ 3. The applicant shall identify the existing trees and their size on the plan to the satisfaction of the Town Engineer.
- _____ 4. Compensatory storage shall be provided to mitigate all floodplain impacts including all structures, planters and walls, and include the planned stormwater basin areas to the satisfaction of the Town Engineer. The required and provided flood storage should be recalculated.
- _____ 5. Mitigation areas shall be shifted on the north side to center around the trees, to create an appropriate understory of plantings to the satisfaction of the Town Engineer.
- _____ 6. The wetland mitigation plan shall be revised to include planting from the NYSDEC website link Floodplain Forest Guide —New York Natural Heritage Program (nynhp.org), especially areas that are located west of the stream bank to the satisfaction of the Town Engineer.
- _____ 7. The wetland mitigation plan shall be revised to eliminate Winter Red Holly and the replace with a native shade tolerant species to the satisfaction of the Town Engineer.
- _____ 8. The Applicant shall submit an easement agreement, in a form satisfactory to the Town Attorney, for the improvements located off property.
- _____ 9. The Applicant shall establish a five (5) year long term wetland mitigation and monitoring plan to the satisfaction of the Town Engineer.
- _____ 10. The applicant shall prepare an application for a Floodplain Development Permit demonstrating compliance with Chapter 177 – Flood Damage Prevention of the Town Code. The applicant will be required to demonstrate that appropriate flood mitigation is provided, as it relates to the required “no-rise” analysis and compensatory storage for fill placed within the floodplain.

- _____ 11. The applicant shall provide appropriate stormwater mitigation for the previously completed improvements. A Stormwater Management Design Report and sizing calculations shall be provided to the satisfaction of the Town Engineer.
- _____ 12. The plan shall include construction details for all improvements, subject to this Amended Site Plan Approval, including the patio, walkway and walls and pervious paver system to the satisfaction of the Town Engineer.
- _____ 13. Construction details shall be submitted to the satisfaction of the Town Engineer.
- _____ 14. Payment of all applicable fees, including any outstanding consulting fees.
- _____ 15. 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.
- _____ 16. The Applicant shall submit to the Planning Board Secretary one PDF 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.
- _____ 17. 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. The Applicant shall obtain a Floodplain Development Permit.
- _____ 2. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
- _____ 3. 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.
- _____ 4. The applicant shall submit an engineering inspection fee equal to 3% of the estimated cost of construction.

_____5. Payment of all outstanding fees, including professional review fees.

Prior to the Issuance of a Certificate of Occupancy:

(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 submit a bond in an amount satisfactory to the Town Board associated with the wetland mitigation plan along with a five (5) year monitoring plan.

_____2. The Applicant shall execute and file the easement for the improvements located off property to the satisfaction of the Town Attorney.

_____3. The submission to the Town Building Inspector of an "As Built" site plan.

Other Conditions:

1. 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.

2. 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.

3. 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.

4. 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.

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5. 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.
6. 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.
7. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
8. 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.
9. 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

1 Kent Place Inc.

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