



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

RESOLUTION

Action: Special Use Permit for Accessory Structure, Site Plan, Wetlands Permit and Tree Removal Permit Re-Approvals [2021-011]

Application Name: 1503 Old Orchard Street

Owner/Applicant: Old Quarry Lake LLC

Designation: 123.05-1-64

Zone: R-1A (Residential 1 acre) District

Acreage: 7.92 acres

Location: 1503 Old Orchard Street

Date of Original Approval: June 19, 2017

Date of Re-Approval: May 24, 2021

Expiration Date: May 24, 2022

WHEREAS, an application dated April 12, 2021 for Special Use Permit approval was submitted to the Planning Board and the requisite fee was paid; and

WHEREAS, the application consists of the following plans:

- Plan labeled “1 of 5,” entitled “Existing Conditions,” dated April 12, 2021, prepared by Nathaniel J. Holt, PE.
- Plan labeled “2 of 5,” entitled “Overall Site Plan,” dated April 12, 2021, prepared by Nathaniel J. Holt, PE.
- Plan labeled “3 of 5,” entitled “Improvement & Erosion Control Plan,” dated April 12, 2021, prepared by Nathaniel J. Holt, PE.
- Plan labeled “4 of 5,” entitled “Standard Details,” dated April 12, 2021, prepared by Nathaniel J. Holt, PE.
- Plan labeled “5 of 5,” entitled “Rain Garden Detail & Notes,” dated April 12, 2021, prepared by Nathaniel J. Holt, PE.
- Plan entitled “Mitigation Planting Plan,” dated April 8, 2021, prepared by J.D. Barrett & Associates, LLC.
- Plan labeled “G-100,” entitled “Site Plan,” dated April 9, 2021, prepared by Crozier Gedney Architects, P.C.
- Plan labeled “G-101,” entitled “Cabin F.A.R. Diagrams,” dated April 9, 2021, prepared by Crozier Gedney Architects, P.C.
- Plan labeled “G-102,” entitled “First Floor F.A.R. Diagram,” dated April 9, 2021, prepared by Crozier Gedney Architects, P.C.

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- Plan labeled “G-103,” entitled “Second Floor F.A.R. Diagram,” dated April 9, 2021, prepared by Crozier Gedney Architects, P.C.
- Plan labeled “G-104,” entitled “Attic F.A.R. Diagram,” dated April 9, 2021, prepared by Crozier Gedney Architects, P.C.
- Plan labeled “G-105,” entitled “Carriage House F.A.R. Diagrams,” dated April 9, 2021, prepared by Crozier Gedney Architects, P.C.

WHEREAS, the application is for the construction of a detached bath house, elimination of the existing septic system serving the bathhouse and connection of the bath house to the municipal sewer on a 7.92-acre lot located within the R-1A Zoning District; and

WHEREAS, the Applicant is requesting re-approval of the expired Special Use Permit and Wetland Permit previously granted by the Planning Board to construct the lakeside cabin; and

WHEREAS, Special Use Permit approval is necessary because the Planning Board has jurisdiction over all accessory structures over 800 square feet; and

WHEREAS, Section 355-21 of the Town Code permits private gardenhouses, toolhouses, greenhouses, gatehouses, garages or similar private accessory uses not over 1 story and 15 feet in height and limited to 800 square feet in area, except that the Planning Board may, by special permit, authorize the construction of accessory buildings not over 2 stories or 22 feet in height, provided that any such individual accessory building does not exceed 25% of the floor area of the main building, and further provided that all such accessory buildings meet all required setbacks for main buildings in the district in which they are located and are not located within any front yard; and

WHEREAS, the previously submitted architectural plans depicted a building height in excess of 22 feet in height; and

WHEREAS, the Applicant received a variance for the proposed building height from the Zoning Board of Appeals on April 6, 2017; and

WHEREAS, the proposed cabana was a slight variation of the 3 bedroom, two-bath eloghomes.com Teton home; and

WHEREAS, based upon the Teton plans and a review of the submitted plans, the Planning Department determined that the proposed accessory structure could be considered a dwelling; and

WHEREAS, a second dwelling is not permitted in the R-1A Zoning District; and

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WHEREAS, the Planning Board on November 21, 2017 determined that the proposed accessory structure was not a dwelling; and

WHEREAS, the previously submitted Gross Floor Area Calculations Worksheet indicated that the proposed gross floor area on the property exceeds the maximum permitted amount; and

WHEREAS, the Applicant received a variance for the proposed amount of gross floor area from the Zoning Board of Appeals on April 6, 2017; and

WHEREAS, the site plan does not depict the removal of Town-regulated trees; and

WHEREAS, the site plan does not depict Town-regulated steep slope disturbance; and

WHEREAS, the site plan depicts 3,867 square feet of disturbance within the Town-regulated wetland buffer; and

WHEREAS, the Applicant has prepared a mitigation plan that will remove impervious surface, eliminate invasive species and plant a meadow and provide new wetland plantings; and

WHEREAS, the Conservation Board recommended approval of the requested wetlands permit on November 15, 2016; and

WHEREAS, on May 5, 2021 the Conservation Board reconfirmed the 2016 recommendation; and

WHEREAS, the Applicant received Architectural Review Board approval on May 17, 2017; and

WHEREAS, on May 19, 2021 the Architectural Review Board approved the proposed building design; and

WHEREAS, the proposed action is a Type II Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, Type II Actions have been determined not to have a significant impact on the environment do not require any further processing pursuant to SEQRA; and

WHEREAS, the application for special permit approval requires referral to the Westchester County Planning Board pursuant to § 239-m of New York State General Municipal Law (GML); and

WHEREAS, the application was referred to the County Planning Board on May 11, 2021; and

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WHEREAS, a duly advertised public hearing was conducted on May 24, 2021 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Planning Board has requested, received and considered comments from the Town Attorney, the Consulting Town Engineer and the Town Planner regarding the proposed development; and

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

BE IT FURTHER RESOLVED, that the Planning Board finds that the location and size of the use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

BE IT FURTHER RESOLVED, that the Planning Board finds that the location, nature and height of buildings, walls, fences and the nature and extent of existing or proposed plantings on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

BE IT FURTHER RESOLVED, that the Planning Board finds that operations in connection with the special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristics than would be the operations of any permitted uses not requiring a special permit.

BE IT FURTHER RESOLVED, that the Planning Board finds that parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety; and

BE IT FURTHER RESOLVED, that the Planning Board finds that the proposed special permit use will not have a significant adverse effect on the environment; and

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BE IT FURTHER RESOLVED, that pursuant to Article VII of Chapter 355 of the Town Code, this special use permit, site plan, wetlands permit and tree removal permit approvals shall be deemed to authorize only the particular use(s) shown on the approved site plan and shall expire if work is not initiated in accordance therewith within one (1) year, or if the use(s) for which site plan approval was granted ceases for more than one (1) year from the date of the issuance of the certificate of occupancy, or if all required improvements are not completed within eighteen (18) months of the date of this approval, or if all such required improvements are not maintained and all conditions and standards of this approval are complied with throughout the duration of the use(s)

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 submit floor plans for the proposed accessory structure to the satisfaction of the Planning Department.
- _____ 2. The Applicant shall submit elevations of the proposed accessory structure to the satisfaction of the Planning Department.
- _____ 3. The Applicant shall submit a Gross Floor Area Calculations Worksheet and backup information to the satisfaction of the Planning Department.
- _____ 4. The Applicant shall submit a Gross Land Coverage Calculations Worksheet and backup information to the satisfaction of the Planning Department.
- _____ 5. The wetland mitigation plan shall be revised to depict the proposed amount of Town-regulated wetland disturbance to the satisfaction of the Planning Department.
- _____ 6. The site plan shall be revised to include a note stating that Town-regulated tree removal is not proposed or illustrate all existing trees to be removed or protected within the proposed limits of disturbance, to the satisfaction of the Town Planner.
- _____ 7. The applicant shall demonstrate conformance with the New York State Department of Environmental Conservation (NYSDEC) General Permit 0-20-001 for Stormwater Discharges from Construction Activity to the satisfaction of the Town Engineer. In addition, the applicant shall submit draft copies of the required Notice of Intent (NOI) and SWPPP MS4 Acceptance Form for review to the satisfaction of the Town Engineer.

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- _____ 8. The limit of disturbance shall be adjusted to include all areas associated with site removals, temporary construction access, bath house construction, grading, tree removal and planting/mitigation areas, to the satisfaction of the Town Engineer. If the total disturbance will exceed one (1) acre, the applicant will be required to submit a Stormwater Pollution Prevention Plan (SWPPP) that includes post-construction stormwater quality and quantity practices, per NYSDEC GP-0-20-001 to the satisfaction of the Town Engineer.
- _____ 9. The applicant shall provide verification from the New York City Department of Environmental Protection (NYCDEP) confirming whether or not the construction of the proposed impervious surface associated with the house within the 100 foot limiting distance of the wetland will require NYCDEP approval of an Individual Residential Stormwater Permit (IRSP) to the satisfaction of the Town Engineer.
- _____ 10. The applicant shall perform deep and percolation soil testing to be witnessed by the Town Engineer. The test locations and results shall be shown on the plan to the satisfaction of the Town Engineer.
- _____ 11. The applicant shall provide documentation confirming that the existing fencing and roads on NYCDEP land is permitted to remain to the satisfaction of the Town Attorney.
- _____ 12. The depth of the soil media illustrated in the Rain Garden Detail differs from that used in the Rain Garden Calculations. The plans shall be coordinated and revised as needed to the satisfaction of the Town Engineer.
- _____ 13. The location of the proposed rain garden on the Civil Engineer's plans differs from that shown on the Mitigation Planting Plan. The plans shall be coordinated and revised as needed to the satisfaction of the Town Engineer.
- _____ 14. The plan proposes a sewer ejector pump to serve the log cabin. The proposed discharge line is Schedule 40 PVC, glue-joint pipe. The discharge line shall be replaced with HDPE joint-less pipe to the satisfaction of the Town Engineer.
- _____ 15. The size of the proposed raingarden illustrated on the Rain Garden Plan and in the Rain Garden Calculations, Sheet 5 of 5, differ between each other, as well as with the size indicated on the Mitigation Planting Plan. The rain garden surface area on the plans and design calculations shall be coordinated and revised as needed to the satisfaction of the Town Engineer.

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- _____ 16. 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.
- _____ 17. The applicant shall provide confirmation of the status of any existing access easements the New York City Department of Environmental Protection (NYCDEP) may have over the subject property to the satisfaction of the Town Engineer and Town Attorney. Specifically, the plan illustrates the limits of an “Ingress and Egress Easement per FM 26994 and Control No. 423450623”. Permission from the NYCDEP may be required to remove or maintain the existing access road, as proposed, to the satisfaction of the Town Engineer and Town Attorney.
- _____ 18. The construction sequence should be revised to require that the limit of disturbance be staked prior to the commencement of land clearing and grubbing activities to the satisfaction of the Town Engineer.
- _____ 19. As required by Town Code, the applicant shall provide a long-term monitoring and maintenance plan for the proposed wetland mitigation for a period of at least five (5) years to the satisfaction of the Town Engineer. The Town Engineer will provide standard conditions for the long-term monitoring and maintenance plan to be included on the Site Landscaping and Wetland Mitigation Plan.
- _____ 20. The applicant shall submit a detailed quantity cost estimate for all improvements proposed for the wetland mitigation with the quantities certified by the applicant’s engineer to the satisfaction of the Town Engineer.
- _____ 21. 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 five year 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.
- _____ 22. Payment of all outstanding fees, including professional review fees.

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- _____ 23. 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.
- _____ 24. 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 provide documentation that the Sewer and Water Department and the Westchester County Health Department have approved the proposed sewer connection to the satisfaction of the Building Department.
- _____ 2. The proposed bath house shall be designed with a heat pump and non-full sized appliances in an effort to prevent the categorization of the bath house as a dwelling unit to the satisfaction of the Building Department.
- _____ 3. The applicant shall provide proof of coverage under NYSDEC General Permit, GP-0-20-001, for Stormwater Discharges from Construction Activities to the satisfaction of the Town Engineer.
- _____ 4. The applicant shall provide NYCDEP approval of an Individual Residential Stormwater Permit or confirmation that said Permit is not required to the satisfaction of the Town Engineer.
- _____ 5. Provide confirmation that the Wetland Mitigation Bond has been posted, to the satisfaction of the Town Engineer
- _____ 6. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
- _____ 7. 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.

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_____8. 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 documentation demonstrating that Notice of Termination (NOT) filing for the NYSDEC General Permit has been completed to the satisfaction of the Town Engineer.

_____ 2. Prior to the issuance of a certificate of occupancy/compliance, the actual construction, installation and implementation of all wetland mitigation to the satisfaction of the Town Engineer.

_____ 3. Since there is not a principal use currently on the property, a Certificate of Occupancy for the lakeside cabin can't be issued until a Certificate of Occupancy is issued for the main house.

_____ 4. The submission to the Town Building Inspector of an "As Built" site plan.

_____ 5. Payment of all outstanding fees, including professional review fees.

Other Conditions:

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

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.

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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. For each phase of construction, soil erosion and sedimentation control measures shown on the plans shall be in place prior to the start of any site work (excluding mechanized tree work) as described in the sequence of construction, to the satisfaction of the Town Engineer. The 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 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 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 New York State Standards and Specifications for Erosion & Sediment Control.

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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

Old Quarry Lake LLC

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

Date

Valerie B. Desimone, Planning Board Secretary
Certified as Approved by the North Castle Planning Board

KELLARD SESSIONS CONSULTING P.C.
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, Acting Chair