



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

## **RESOLUTION**

**Action:** Site Plan and Steep Slope Permit Approvals [#2021-012]  
**Project Name:** Santomero – North Broadway  
**Owner:** 868 North Broadway, LLC  
**Applicant:** Christopher Santomero  
**Designation:** 122.12-5-63  
**Zoning District:** CB  
**Location:** 868 North Broadway  
**Area:** 18,826 square feet  
**Approval Date:** April 26, 2021  
**Expiration Date:** April 26, 2021 (1 year)

WHEREAS, on March 5, 2021, an application for site plan approval was submitted to the Planning Board and the requisite fee was paid; and

WHEREAS, the application consists of the following drawings:

- Plan labeled “Sheet 1 of 14,” entitled “Zoning & Vicinity Plan,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 2 of 14,” entitled “Site Plan,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 3 of 14,” entitled “Existing Conditions & Demolition Plan,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 4 of 14,” entitled “Erosion & Sediment Control Plan,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 5 of 14,” entitled “Improvement Plan,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 6 of 14,” entitled “Landscape Plan,” dated November 27, 2018, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 7 of 14,” entitled “Sight Distance Plan,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 8 of 14,” entitled “Lighting Plan,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 9 of 14,” entitled “Profiles,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 10 of 14,” entitled “Site Details,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 11 of 14,” entitled “Site Details 2,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “Sheet 12 of 14,” entitled “Subsurface Detention Details Plan,” dated November 27, 2017, last revised January 23, 2020, prepared by Site Design Consultants.

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- Plan labeled “Sheet 13 of 14,” entitled “Erosion & Sediment Control Details,” dated November 27, 2017, last revised July 24, 2019, prepared by Site Design Consultants.
- Plan labeled “Sheet 14 of 14,” entitled “Retaining Wall Plan & Details,” dated August 15, 2019, last revised January 23, 2020, prepared by Site Design Consultants.
- Plan labeled “CS,” entitled “Cover Sheet,” dated November 2, 2018, prepared by Leigh Overland Architect, LLC.
- Plan labeled “A1,” entitled “Proposed Floor Plan,” dated November 2, 2018, prepared by Leigh Overland Architect, LLC.
- Plan labeled “A2,” entitled “Proposed Elevations,” dated November 2, 2018, prepared by Leigh Overland Architect, LLC.
- Plan labeled “A3,” entitled “Proposed Elevations,” dated November 2, 2018, prepared by Leigh Overland Architect, LLC.

WHEREAS, the Applicant is seeking site plan reapproval for the completion of the existing building under construction that would result in a new 4,300 square foot retail building and the construction of various retaining walls; and

WHEREAS, the previously approved site plan resolution has expired; and

WHEREAS, the plans have remained essentially the same; and

WHEREAS, the approximately 18,826 square foot property is located in the CB Zoning District and is designated on the Tax Maps of the Town of North Castle as lot 122.12-5-63; and

WHEREAS, an Environmental Assessment Form dated March 5, 2021 was prepared by the Applicant and submitted to the Planning Board for its review and consideration; and

WHEREAS, the Proposed Action would be classified as an Unlisted Action pursuant to the State Environmental Quality Review Act (SEQRA) and the Town of North Castle Environmental Quality Review Law; and

WHEREAS, the application for site plan approval requires referral to the Westchester County Planning Board pursuant to § 239-m of New York State General Municipal Law (GML) since the subject site is located within 500 feet of North Broadway (NYS Route 22); and

WHEREAS, the project was referred to the County; and

WHEREAS, a February 16, 2018 letter from Westchester County recommends additional stormwater controls, a sidewalk extending the entire frontage to the bee line bus stop and coordination of the site plan with Bee Line (proposed; and

WHEREAS, pursuant to Section 12-18(1) of the Town Code, all site development plans submitted to the Planning Board are required to be referred to the Architectural Review Board (ARB) for review and comment; and

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WHEREAS, the ARB approved the proposed building design on April 18, 2019; and

WHEREAS, a total of 22 off-street parking spaces are required for the proposed use while only 13 spaces are provided; and

WHEREAS, the Applicant has received a variance for deficient number of off-street parking spaces from the Zoning Board of Appeals on April 4, 2019; and

WHEREAS, the proposed covered walkway does not meet the minimum required front yard setback of 10 feet; and

WHEREAS, the Applicant secured a 9.5 foot front yard variance from Section 213-20 of the Town Code from the Zoning Board of Appeals on April 18, 2019; and

WHEREAS, a duly advertised public hearing regarding the site plan was conducted on April 26, 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 Planner regarding the proposed development; and

WHEREAS, the Planning Board is familiar with the nature of the site, the surrounding area and the proposed development; and

WHEREAS, the plans have been forwarded to the Chief of Police, Fire Inspector and the North White Plains Fire Chief so that they may make any pertinent recommendation 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, the Police Department is concerned if there is not adequate off street parking at this location employees and patrons will cross North Broadway creating a hazardous situation. Additionally, the Police Department noted that left turn restrictions are necessary for vehicles entering and exiting the site; and

WHEREAS, pursuant to Section 355-58 of the Town Code, one loading space (15 feet in width, at least 40 feet in length and at least 14 feet in height) is required for this site; and

WHEREAS, the site plan depicts a reduced size loading space; and

WHEREAS, upon consideration of all factors entering into the loading and unloading needs of each use, the Planning Board may make appropriate reductions in the loading requirement; and

WHEREAS, the site plan depicts 5,829 square feet of Town-regulated steep slope disturbance; and

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WHEREAS, the requirements of the Zoning Ordinance and the Town of North Castle Comprehensive Plan Update have been met; 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 steep slope permit approvals, as described herein, is hereby conditionally approved, subject to the following conditions and modifications; and

WHEREAS, pursuant to Section 355-58 of the Town Code, the Planning Board finds that the proposed reduced size loading space is acceptable; and

BE IT FURTHER RESOLVED that, this site plan and tree removal 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 depicts retaining walls in excess of six feet in height. The Applicant shall demonstrate conformance with the requirements of Section 355-15.G(1)(b) of the Town Code to the satisfaction of the Town Engineer.
- \_\_\_\_\_ 2. The applicant shall submit, as necessary and appropriate, final details to the satisfaction of the Town Engineer of site, final grading and storm drainage, utility connections, sight lines and curbing, parking, driveway and pavement specifications.
- \_\_\_\_\_ 3. The details associated with the subsurface detention system, that were to be included on Sheet 12 or 14, have been inadvertently omitted. The plan shall be revised to include the appropriate details to the satisfaction of the Town Engineer.
- \_\_\_\_\_ 4. 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.
- \_\_\_\_\_ 5. Payment of all applicable fees, including any outstanding consulting fees.
- \_\_\_\_\_ 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. All proposed building/site signage will require ARB approval
- \_\_\_\_\_ 2. The currently proposed elevations (clock, front windows, rear elevation, etc.) of the building are different than the elevations approved by the ARB in 2018. The Applicant shall submit documentation from the ARB confirming that the proposed changes in the building design do not require amended ARB approval to the satisfaction of the Building Department.
- \_\_\_\_\_ 3. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
- \_\_\_\_\_ 4. 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.
- \_\_\_\_\_ 5. The applicant shall submit an engineering inspection fee equal to 3% of the estimated cost of construction.
- \_\_\_\_\_ 6. Payment of all outstanding fees, including professional review fees.
- \_\_\_\_\_ 7. The submission of a retaining wall design and construction details prepared by a New York State Licensed Professional Engineer to the satisfaction of the Town Engineer.

**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 obtain all applicable New York State Department of Transportation (NYSDOT) approvals/permits for work proposed within the right-of-way of New York State Route 22, including sidewalks, driveway access and any signage to the satisfaction of the Town Engineer.
- \_\_\_\_\_ 2. The applicant shall coordinate the proposed sidewalk with the NYSDOT and Westchester County Bee Line Bus Service and obtain all necessary approvals to the satisfaction of the Town Engineer.

- \_\_\_\_\_3. The Applicant shall demonstrate to the satisfaction of the Town Engineer that the NYSDOT approves of the “No Left Turn” signs within the North Broadway right-of-way.
- \_\_\_\_\_4. The Applicant shall demonstrate to the satisfaction of the Town Engineer that a permit has been issued by the NYSDOT for work within the right-of-way.
- \_\_\_\_\_5. A Knox Box shall be installed at the entrances to the building (or an alternate location) to the satisfaction of the Building Department.
- \_\_\_\_\_6. The submission to the Town Building Inspector of an "As Built" site plan.
- \_\_\_\_\_7. The plan proposes improvements, including curb, sidewalk, and pavement within the New York State Department of Transportation (NYSDOT) right-of-way of New York State Route 22. The applicant shall submit confirmation of closure of the NYSDOT Highway Work Permit to the satisfaction of the Town Engineer.
- \_\_\_\_\_8. The submission of a certification by the Design Engineer for the construction of the retaining wall in conformance with the design drawings to the satisfaction of the Town Engineer.

**Other Conditions:**

1. Occupation of the building is limited to one (1) retail tenant with no ability to sublet.
2. Left turns shall be prohibited from entering the property and from existing the property.
3. 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.
4. 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.
5. 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.

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6. 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.
7. 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.
8. 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.
9. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
10. 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.
11. 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.
12. The applicant shall provide confirmation from the NYSDOT, to the satisfaction of the Town Engineer, that all improvements in the NYS right-of-way have been satisfactorily completed in accordance with the Highway Work Permit.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
868 North Broadway LLC – Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christopher Santomero - Applicant

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