



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

Telephone: (914) 273-3542

Fax: (914) 273-3554

www.northcastleny.com

PLANNING BOARD
Christopher Carthy, Chair

RESOLUTION

Action:	Tree Removal Permit Approval
Application Name:	Whippoorwill Hills Tree Removal [2021-015]
Applicant/Owner:	Whippoorwill Hills Homeowners Association
Designation:	107.16-1-7
Zone:	R-MF
Acreage:	19.24 acres
Location:	345 Main Street
Date of Approval:	November 8, 2021
Expiration Date:	November 8, 2022 (1 Year)

WHEREAS, the Applicant has submitted an after the fact tree removal permit request for the removal of 9 Town-regulated trees and the installation of 9 new trees as mitigation; and

WHEREAS, the application is necessitated as a result of the actions of an adjacent property owner who cut down nine (9) mature, healthy, fully developed deciduous trees in the HOA's landscape buffer zone; and

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

- Plan entitled "Tree Replacement and Screen Planting Plan," dated March 12, 2021, prepared by Rosedale Nurseries, Inc.

WHEREAS, the site plan depicts the removal of 9 Town-regulated trees; and

WHEREAS, as mitigation, the site plan depicts the planting of 9 new trees; and

WHEREAS, the Planning Board, pursuant to §355-44 of the North Castle Code, conducted a duly noticed public meeting, which was conducted on November 8, 2021 with respect to the tree removal 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 tree removal permit approval, as described herein, is hereby conditionally approved, subject to the following conditions and modifications; and

BE IT FURTHER RESOLVED that, this tree removal permit approval 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 Tree Replacement Plan shall include a note indicating that disturbed areas required to gain access to the planting would be re-established with an appropriate seed mix. The proposed mix shall be specified on the plan or noted within the permit to the satisfaction of the Town Engineer.

- _____ 2. The applicant shall provide a 5-year Landscape Maintenance and Monitoring Plan to the satisfaction of the Town Engineer. In addition, the mitigation plan shall be revised to include the requirements of the maintenance and monitoring to the satisfaction of the Town Engineer.

- _____ 3. The applicant shall submit a detailed quantity cost estimate for all improvements proposed with the quantities certified by the applicant's Landscape Architect to the satisfaction of the Town Engineer.

- _____ 4. 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 installation of the 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.

- _____ 5. The Applicant shall submit final construction plans for site improvements, excepting improvements relating to the house construction, to the Town Engineer

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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.

- _____6. Payment of all applicable fees, including any outstanding consulting fees, pursuant to the master fee schedule.

- _____7. 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 Landscape Maintenance Mitigation Bond.

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.

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.

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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.
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.

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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.

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

Date

Whippoorwill Hills Homeowners Association

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