

**STAFF REPORT - TOWN OF NORTH CASTLE PLANNING DEPARTMENT**

February 2, 2023



APPLICATION NUMBER - NAME  
 #2022-003 – 9 Cole Drive - Daniel  
 Accessory Apartment Special Permit and Site  
 Plan Approvals

SBL  
 94.02-1-12

MEETING DATE  
 February 13, 2023

PROPERTY ADDRESS/LOCATION  
 9 Cole Drive

**BRIEF SUMMARY OF REQUEST**

Approval of a detached accessory apartment.



PENDING ACTION:             Plan Review             Town Board Referral             Preliminary Discussion

EXISTING ZONING	EXISTING LAND USE	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
R-2A One-Family Residence District (2 acre)	Existing Single- family home	Residential	None	6.5 acres

**PROPERTY HISTORY**

Existing Single Family Home with accessory buildings

**COMPATIBILITY with the COMPREHENSIVE PLAN**

- Continue to take neighborhood context into account in approving new single-family homes.
- Continue to protect natural resources and environmentally sensitive areas such as rivers, streams, lakes, ponds, wetlands, flood plains, aquifers, wildlife habitats, steep slopes and forested areas, significant trees, and woodlands, among others, from unnecessary and avoidable impacts.
- Continue strong protection of tree cover through the tree removal permitting process.
- Preserve the current overall development pattern of North Castle and its neighborhoods. Be sure new development responds to environmental constraints, particularly for preservation of the New York City watershed.
- Maintain the quality-of-life created by physical and natural attributes, by structuring development that promotes sound conservation measures.
- The Town should encourage residential development that is compatible in scale, density, and character with its neighborhood and natural environment.

**STAFF RECOMMENDATIONS**

1. The Applicant should be directed to address all outstanding staff and consultant’s comments.
2. The Planning Board will need to determine whether the project is compatible with the Comprehensive Plan.

<u>Procedural Comments</u>	<u>Staff Notes</u>
<ol style="list-style-type: none"> <li>1. The Proposed Action would be classified as a Type II Action pursuant to the State Environmental Quality Review Act (SEQRA).</li> <li>2. A public hearing regarding the proposed special permit will need to be scheduled.</li> <li>3. 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) since a special permit is being requested.</li> </ol>	
<p><u>General Comments</u></p> <ol style="list-style-type: none"> <li>1. Pursuant to Section 355-40.K(3) of the Town Code, the owner of the lot on which the accessory apartment is located shall occupy either of the dwelling units on the premises. Owner occupancy of one of the units shall continue for the duration of the special permit</li> <li>2. The originally submitted letter to the Planning Board stated that the existing detached structure was constructed more than 50 years ago. Accessory apartments are not permitted to be located in an accessory structure unless the structure was constructed prior to October 11, 1984.  Pursuant to Section 355-40.K(4)(a) of the Town Code, the Applicant should provide documentation demonstrating that the accessory building existed prior to October 11, 1984.</li> <li>3. The Applicant shall submit an exhibit (or plan note/calculation) demonstrating that the proposed accessory building does not exceed 25% of the floor area (not coverage) of the main building.</li> <li>4. Pursuant to Section 355-40.K(4)(b) of the Town Code, the Applicant should provide documentation that the principal dwelling CO was issued more than four years ago and that the Applicant has owned the property for two years.</li> <li>5. Pursuant to Section 355-40.K(11) of the Town Code, the Applicant will need to demonstrate that the size of the apartment conforms to the Town Code. Specifically, where the gross floor area of the dwelling is less than or equal to 2,000 square feet, the accessory apartment shall in no case exceed 33% of such area. Where the gross floor area of the dwelling is greater than 2,000 square feet, the permitted maximum size of the accessory apartment may be increased by 25% of the gross floor area in excess of 2,000 square feet.</li> <li>6. Pursuant to Section 355-40.K(12) of the Town Code, within 30 days of receipt of a completed application which indicates conformance to all dimensional standards, the Building Inspector and the Fire Inspector shall conduct an on-site inspection of the residence and shall report on such inspection to the Planning Board and shall include in these reports the compliance of the proposed accessory unit with the requirements of this subsection, as well as building and fire codes, and other information as may be requested by the Planning Board.</li> </ol>	<p>The Applicant should confirm that one of the units will be occupied by the property owner. The cover letter stated that a note was added to the plan; but we were unable to locate such a note.</p> <p>The Applicant's cover letter stated that a Building Permit, CO or other Building Department documentation demonstrating that the structure was constructed prior to 1984 was submitted; however, such a letter was not included with the most recent submission.</p> <p>The Applicant's cover letter states that this information was provided by the Applicant's architect; however, such information was not provided with the most recent submission.</p> <p>The Applicant shall provide the required analysis for review by the Planning Department.</p> <p>The Applicant's cover letter states that this information was provided; however, such information was not provided with the most recent submission.</p> <p>The Applicant's cover letter states that this information was provided by the Applicant's architect; however, such information was not provided with the most recent submission.</p> <p>The Applicant shall provide the required analysis for review by the Planning Department.</p>

7. Pursuant to Section 355-40.K(14) of the Town Code, prior to the issuance of a building permit for the establishment of an accessory apartment, the existing septic disposal system shall be reviewed by the Westchester County Department of Health, except where public sewer is provided. The Building Inspector shall reject all applications for building permits for accessory apartments in those cases where the Health Department report indicates that the septic system is inadequate for the requested use, or contains recommendations for improvements to the system until such time as such recommended improvements are installed. The applicant shall demonstrate to the Building Inspector that the septic disposal system has been cleaned within one year of the date of application. For properties provided with water supply from an on-site well, the applicant shall also collect a sample of well water for microbiological analysis to determine the presence of the coliform group. Such sample shall be analyzed by a state-approved laboratory, and the results shall be reported to the Building Inspector and Health Department.
8. Pursuant to Section 355-40.K(15) of the Town Code, accessory apartments which have been approved by the Planning Board, following due notice and public hearing, shall be reinspected by the Building Inspector every three years. The purpose of such continuing reinspection of the accessory unit shall be to determine if all required conditions of approval continue to be complied with, and report on such findings to the Planning Board. At the same time of such inspection, the Building Inspector shall also review and report on compliance with off-street parking requirements. If the Building Inspector finds that additional parking is necessary for the lot, he shall report such finding to the Planning Board and recommend the number of additional spaces to be provided. On the recommendation of the Building Inspector, the Planning Board may make a finding that the original conditions of special permit approval continue to be complied with, modify the conditions of special permit approval in accordance with the Building Inspector's recommendations or revoke the accessory apartment special permit approval.
9. Pursuant to Section 355-40.K(16) of the Town Code, a special permit uses for accessory apartments shall terminate upon change of ownership.
10. Pursuant to Section 355-37 of the Town Code, the Planning Board must determine 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.
  - 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.
  - Operations in connection with any 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.
  - 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.
  - Where required, the provisions of the Town Flood Hazard Ordinance.
  - The Board finds that the proposed special permit use will not have a significant adverse effect on the environment.