



**TOWN OF NORTH CASTLE**  
**WESTCHESTER COUNTY**  
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Armonk, New York 10504-1898

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**PLANNING BOARD**  
Christopher Carthy, Chair

## **R E S O L U T I O N**

<b>Action:</b>	Site Plan and Wetland Permit Approvals
<b>Application Name:</b>	84 Round Hill Road [2022-007]
<b>Applicant:</b>	Tomasz Fidziukiewicz, TT Mechanical Corp.
<b>Owner:</b>	82-84 ROUND HILL LLC
<b>Designation:</b>	102.03-1-39
<b>Zone:</b>	R-2A
<b>Acreage:</b>	2.28 acres
<b>Location:</b>	84 Round Hill Road
<b>Date of Approval:</b>	December 12, 2022
<b>Expiration Date:</b>	December 12, 2023 (1 Year)

WHEREAS, the Applicant has disturbed the Town-regulated wetland buffer without a permit; and

WHEREAS, in addition, the Applicant is seeking to legalize construction of retaining walls in the front yard, a new fence, driveway extension and pergola; and

WHEREAS, the RPRC determined that given the environmental constraints of the property and the amount of disturbance, a detailed review by the Planning Board and Conservation Board is warranted; and

WHEREAS, it is noted that the RPRC, on April 20, 2021, approved the requested pergola, fence, patio and driveway; and

WHEREAS, the existing lot is constrained by Town-regulated and State-regulated wetland and wetland buffer areas; and

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

- Plan labeled "Landscape & Wetland Buffer Mitigation Plan," dated April 5, 2019, last revised September 22, 2022, prepared by Stephen Lopez, AICP, RLA.
- Plan labeled "Mitigation Notes," dated July 6, 2019, prepared by Stephen Lopez, AICP, RLA.

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

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

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WHEREAS, the site plan depicts 9,849 square feet of Town-regulated wetland buffer impacts; and

WHEREAS, the proposed mitigation plan depicts 21,551 square feet of mitigation; and

WHEREAS, pursuant to Section 340-5.B of the Town Code, 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 recommends approval of the requested wetlands permit and mitigation plan; and

WHEREAS, however, the Conservation Board recommends that page 2 of the plan be omitted and that a note stating that “the Town of North Castle Wetland Permit Approval supersedes NYSDEC Approval, as long as the approval does not conflict with NYSDEC. The Town of North Castle reserves the right to enforce local laws regarding maintenance, installation, and bonding of the wetland mitigation plan;” and

WHEREAS, in addition, the Conservation Board recommends that the Applicant be subject to a long-term monitoring plan; and

WHEREAS, the Planning Board, pursuant to §355-44 of the North Castle Code, conducted a duly noticed public hearing, which was conducted on December 12, 2022 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 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

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 site plan and wetlands permit approvals, as described herein, are hereby conditionally approved, subject to the following conditions and modifications; and

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BE IT FURTHER RESOLVED that, this 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. It appears that Town-regulated tree removal was performed in the wetland buffer without the issuance of a tree removal permit. The site plan should be revised to depict any previous Town-regulated tree removal that did not obtain the required permit. The Applicant shall prepare a 1:1 tree mitigation plan to the satisfaction of the Planning Department.
  
- \_\_\_\_\_ 2. Page 2 of the plan shall be omitted and a note stating that “the Town of North Castle Wetland Permit Approval supersedes NYSDEC Approval, as long as the approval does not conflict with NYSDEC. The Town of North Castle reserves the right to enforce local laws regarding maintenance, installation, and bonding of the wetland mitigation plan” shall be added to the plan to the satisfaction of the Planning Department.
  
- \_\_\_\_\_ 3. The applicant shall demonstrate, to the satisfaction of the Town Engineer, that a NYSDEC Freshwater Wetland Permit has been obtained, or alternatively determined no longer required by the NYSDEC.
  
- \_\_\_\_\_ 4. The Applicant shall provide a 5 year monitoring plan as required by Section 340-12 of the Town Code to the satisfaction of the Town Engineer. In addition, the wetland mitigation plan shall be revised to include the requirements of the maintenance and monitoring to the satisfaction of the Town Engineer.
  
- \_\_\_\_\_ 5. The applicant shall submit a detailed quantity cost estimate for all improvements proposed for the wetland mitigation/restoration plan with the quantities certified by the applicant’s Landscape Architect to the satisfaction of the Town Engineer.
  
- \_\_\_\_\_ 6. 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 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.

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- \_\_\_\_\_ 7. The Applicant shall submit final construction plans for site improvements, excepting improvements relating to the house construction, 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.
- \_\_\_\_\_ 8. Payment of all applicable fees, including any outstanding consulting fees, pursuant to the master fee schedule.
- \_\_\_\_\_ 9. The Applicant shall submit to the Planning Board Secretary one (1) 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.

**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.

**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. Provide confirmation by the NYSDEC to the satisfaction of the Town Engineer that any conditions of a NYSDEC Freshwater Wetland Permit have been satisfied.
- \_\_\_\_\_ 2. Payment of all outstanding fees, including professional review fees.
- \_\_\_\_\_ 3. 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, at the sole cost and expense of the Applicant.
- \_\_\_\_\_ 4. 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

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- 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.
  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

\_\_\_\_\_  
Tomasz Fidziukiewicz, TT Mechanical Corp., Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
82-84 ROUND HILL LLC, Owner

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