



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

R E S O L U T I O N

Action: Site Plan, Special Use Permit, Wetlands Permit and Tree Removal Permit Approvals
Application Name: 10 Creemer Road [#2022-010]
Applicant/Owner: Keith & Robin Rosenthal
Designation: 108.02-2-60
Zone: R-2A
Acreage: 5.66 acres
Location: 10 Creemer Road
Date of Approval: April 25, 2024
Expiration Date: April 25, 2025 (1 Year)

WHEREAS, the Applicant has submitted applications for the proposed expansion to an existing single family residence and guest cottage; and

WHEREAS, in addition, the Applicant is seeking approval for an Accessory Apartment Special Use Permit; and

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

- Plan labeled "Sheet 1 of 6," entitled "Site Plan," dated October 1, 2021, last revised March 22, 2024, prepared by Site Design Consultants.
- Plan labeled "Sheet 2 of 6," entitled "Existing Conditions Plan," dated October 1, 2021, last revised March 22, 2024, prepared by Site Design Consultants.
- Plan labeled "Sheet 3 of 6," entitled "Septic Plan," dated October 1, 2021, last revised March 22, 2024, prepared by Site Design Consultants.
- Plan labeled "Sheet 4 of 6," entitled "Erosion and Sediment Control Plan," dated October 1, 2021, last revised March 22, 2024, prepared by Site Design Consultants.
- Plan labeled "Sheet 5 of 6," entitled "Erosion and Stormwater Details," dated October 1, 2021, last revised March 22, 2024, prepared by Site Design Consultants.
- Plan labeled "Sheet 6 of 6," entitled "Septic Details," dated October 1, 2021, last revised March 22, 2024, prepared by Site Design Consultants.
- Plan labeled "A01," entitled "Title Sheet," dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled "A02," entitled "Floor Plan," dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled "A03," entitled "Floor Plan," dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.

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- Plan labeled “A04,” entitled “Foundation,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A05,” entitled “Fdn. Details,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A06,” entitled “Fdn. Details,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A07,” entitled “Floor Plan,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A08,” entitled “Floor Plan,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A09,” entitled “Floor Framing,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A10,” entitled “Floor Plan,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A11,” entitled “Roof Framing,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A12,” entitled “Elevation,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A13,” entitled “Elevation,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A14,” entitled “Elevation,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A15,” entitled “Elevation,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A16,” entitled “Window Sched.,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A17,” entitled “Details,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A18,” entitled “Details,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “A19,” entitled “Details,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “B01,” entitled “Existing,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “B02,” entitled “Foundation,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “B03,” entitled “Fdn. Details,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “B04,” entitled “Floor Plan,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “B05,” entitled “Framing Plan,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.

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- Plan labeled “B06,” entitled “Elevation,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “B07,” entitled “Window Sched.,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “E01,” entitled “Electrical,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled “E02,” entitled “Electrical,” dated January 31, 2022, last revised August 25, 2023, prepared by Justin F. Minieri, AIA.
- Plan labeled, “Sheet 1 of 1,” entitled “Wetland Enhancement/Restoration Plan,” dated October 1, 2021, last revised March 22, 2024, prepared by Site Design Consultants.
- Stormwater Management Plan, dated November 21, 2021, prepared by Site Design Consultants.

WHEREAS, the Building Department confirmed that the accessory apartment addition would conform to the Town Code; and

WHEREAS, accessory apartments are not permitted to be located in an accessory structure unless the structure was constructed prior to October 11, 1984; and

WHEREAS, the Applicant has submitted a 1955 CO for the garage demonstrating that the structure existed prior to 1984; and

WHEREAS, pursuant to Section 355-40.K(5) of the Town Code, only one accessory apartment is permitted per lot; and

WHEREAS, the Applicant has confirmed that other accessory apartments are not located on the property; and

WHEREAS, section 355-40.K(7) of the Town Code prohibits the establishment of an accessory apartment on a lot that contains a professional office or home occupation use; and

WHEREAS, the Applicant has confirmed that the site does not contain a professional office or home occupation use; and

WHEREAS, 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; and

WHEREAS, the Applicant has demonstrated that the accessory building does not exceed 25% of the floor area of the main building; and

WHEREAS, pursuant to Section 355-40.K(4)(b) of the Town Code, the Applicant has provided documentation that the principal dwelling CO was issued more than four years ago and that the Applicant has owned the property for two years; and

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WHEREAS, pursuant to Section 355-40.K(11) of the Town Code, the Applicant has demonstrated that the size of the apartment conforms to the Town Code; and

WHEREAS, the site plan depicts the removal of 11 Town-regulated trees; and

WHEREAS, the accessory structure is proposed to be 15.5 feet in height; and

WHEREAS, accessory structures are limited to a height of 14 feet; and

WHEREAS, the Planning Board can approve accessory building heights in excess of 14 feet so long as the height is less than 22 feet; and

WHEREAS, the Planning Board, pursuant to §355-44 of the North Castle Code, conducted a duly noticed public hearing on April 25, 2024 with respect to the site plan, special permit and wetlands permit at which time all those wishing to be heard with respect to the application were given an opportunity to be heard; and

WHEREAS, the Applicant received approval from the Architectural Review Board on January 18, 2023; and

WHEREAS, two watercourses flow through the property to the on-site pond located within the northeast portion of the site; and

WHEREAS, the pond drains to the New York State Department of Environmental Conservation (NYSDEC) Wetland K-24; and

WHEREAS, the Applicant has obtained a NYSDEC Freshwater Wetland Permit, dated August 29, 2023, for work within the NYSDEC 100-foot wetland buffer that includes construction of a rain garden, removal of invasive species and the addition of native plantings; and

WHEREAS, the Westchester County GIS Mapping designates the majority of the lands east of the entry drive, cottage and residence as hydric soils; and

WHEREAS, the site plan depicts 6,400 square feet of Town-regulated wetland buffer disturbance and 10,000 sq. ft. of proposed mitigation; and

WHEREAS, the Conservation Board in a March 26, 2024 memorandum to the Planning Board recommended approval of the requested wetlands permit; and

WHEREAS, the Applicant has obtained WCHD Approval NOC-2023-10, dated May 19, 2023, for the construction of an on-site wastewater treatment expansion system to service the expanded residence and existing cottage. Existing on-site treatment facilities can service the facilities with minor modification to the septic tank and piping. Comment addressed; and

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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) since a special permit is being requested; and

WHEREAS, the referral was made on March 29, 2022; and

WHEREAS, the Town is not in receipt of comments from Westchester County; 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, special use permit, wetlands permit and tree removal permit approvals, as described herein, are 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; and

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; and

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; and

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

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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

BE IT FURTHER RESOLVED, pursuant to Section 355-21 of the Town Code, the Planning Board authorizes an accessory building height of 15.5 feet; and

BE IT FURTHER RESOLVED that, this site plan, special use permit, wetlands permit 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 planting schedule and planting plan shall be further coordinated on Sheet 1 of 1 to the satisfaction of the Town Engineer:
 - a. The following plant materials are indicated in the plant schedule, however, are not called out on the plan:
 - o (25) SA, Lesser Burreed, Sparganium americanum
 - o (50) JE, Soft Rush, Juncus effusus
 - o (50) SP, Sommon three-square, Schoenoplectus pungens
 - o (4) Seed, Pinelands OBL/FACW Wildlife Shelter and Forage Mix
 - o (3) Seed, Pinelands Rain Garden Mix
- _____ 2. Plant layout and specification in Detail “SW-1 Rain Gardens Detail” on Sheet 5 of 6 conflicts with/is inconsistent with plant layout and specification shown on Sheet 1 of 1. Please revise to the satisfaction of the Town Engineer.
- _____ 3. An itemized cost estimate for all proposed plants quantifying the cost of each individual plant from nursery to installation with a one (1) year guarantee shall be provided for review to the satisfaction of the Town Engineer. In addition, an itemized cost estimate quantifying the cost of each individual task/phase required to fulfill and complete the Maintenance and Monitoring Schedule proposed, (per Town Code Section, “340-9” & “340-12) for the total duration of (5) years shall be provided.

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- _____4. On Sheet 1 of 6 in the table entitled “WETLAND 100’ ADJACENT AREA DISTURBANCE”, the item in column “PROPOSED MITIGATION” shall be revised to “WETLAND ENHANCEMENT/RESTORATION PLAN” to the satisfaction of the Town Engineer.
- _____5. On Sheet 4 of 6 in the table entitled “TREES TO BE REMOVED”, the total quantity of trees to be removed shall be revised to (11) to the satisfaction of the Town Engineer.
- _____6. Provide on the site plan the location of the existing septic system servicing the proposed residence to the satisfaction of the Town Engineer.
- _____7. The site plan depicts the existing septic system servicing the existing residence. The system appears to extend into the area shown as septic expansion area for the accessory structure. Please clarify to the satisfaction of the Town Engineer.
- _____8. Based upon an accurate wetland determination, the Applicant shall verify with the Westchester County Department of Health (WCHD) their ability to permit the construction of the new septic system proposed to service the main residence.
- _____9. The existing septic system servicing the cottage appears to be located within hydric soils. The Applicant shall verify with the WCHD their ability to permit the cottage expansion through the use of the existing septic system to the satisfaction of the Town Engineer.
- _____10. A rain garden is proposed to mitigate stormwater runoff impacts. The Applicant shall submit stormwater computations used to design the rain garden mitigating water quantity for the project site during a 25-year storm event to the satisfaction of the Town Engineer.
- _____11. The Applicant shall provide copies of the septic system approval by the Westchester County Department of Health for the proposed site layout to the satisfaction of the Town Engineer.
- _____12. The applicant shall provided a SWPPP and draft Notice of Intent (NOI), as required by Chapter 267, Stormwater Management of the Town Code and as required to obtain coverage under the NYSDEC General Permit, GP-0-20-001, for Stormwater Discharge from Construction Activity to the satisfaction of the Town Engineer.

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- _____ 13. 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.
- _____ 14. 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.
- _____ 15. Payment of all applicable fees, including any outstanding consulting fees, pursuant to the master fee schedule.
- _____ 16. The Applicant shall submit to the Planning Board Secretary one 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 Applicant has estimated the earthwork for the project to result in 315 c.y. of excavation and 755 c.y. of fill for a net importation of fill of 440 c.y. The applicant shall submit an application for a Fill Permit with the Town Building Department at the time of Building Permit Application.
- _____ 2. 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.

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- _____3. The Applicant shall provide proof of filing of the Notice of Intent and MS4 SWPPP Acceptance Form with the NYSDEC for coverage under SPEDES General Permit, GP-0-20-001, to the satisfaction of the Town Engineer.
- _____4. Provide confirmation that the Wetland Mitigation Bond has been posted, to the satisfaction of the Town Engineer.
- _____5. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.
- _____6. Payment of all outstanding fees, including professional review fees.

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. The Town of North Castle Building Department and Fire Prevention Officer shall inspect the apartment for compliance with all North Castle and NYS requirements.
- _____2. 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.
- _____3. 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.
- _____4. Payment of all outstanding fees, including professional review fees.
- _____5. 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.
- _____6. The submission to the Town Building Inspector of an "As Built" site plan.

Other Conditions:

1. The owner of the lot on which the accessory apartment is located is required to occupy either of the dwelling units on the premises. Owner occupancy of one of the units is required to continue for the duration of the special permit. Alternative forms of ownership may include but are not limited to corporate ownership, partnership ownership, an estate or trust ownership, subject to review by the Town Attorney to ensure

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that the intent of the Town Code are fulfilled.

2. No more than one accessory apartment per lot is permitted.
3. No accessory apartment can be permitted on any lot currently utilized as an office of a professional person or home occupation, as defined in § 355-4 and as regulated in § 355-21.
4. 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.
5. Special permit uses for accessory apartments shall terminate upon change of ownership.
6. 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.
7. 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.
8. 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.
9. 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

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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.

10. 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.
11. 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.
12. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
13. 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.
14. 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.

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

Date

Keith & Robin Rosenthal

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

Date

Adam R. Kaufman, AICP
Director of Planning

KSCJ 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