



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

Telephone: (914) 273-3542  
Fax: (914) 273-3554  
[www.northeastleny.com](http://www.northeastleny.com)

**PLANNING BOARD**  
Christopher Carthy, Chair

## **RESOLUTION**

**Action:** Site Development Plan and Tree Removal Permit Approvals  
**Application Name:** 26 Chestnut Ridge Rd [2022-016]  
**Applicant/Owner:** Anthony & Melanie Marino  
**Designation:** 94.04-1-39  
**Zone:** R-2A  
**Acreage:** 1.7 acres  
**Location:** 26 Chestnut Ridge Rd.  
**Date of Approval:** January 30, 2023  
**Expiration Date:** January 30, 2024 (1 Year)

WHEREAS, the RPRC referred the project to the Planning Board; and

WHEREAS, the project proposes “after the fact” placement of fill on the property, tree removal and patio construction; and

WHEREAS, the Applicant was issued a violation on November 24, 2021 for bringing in fill to the site without obtaining a permit; and

WHEREAS, the Applicant was issued a violation on November 24, 2021 for constructing a patio without obtaining a permit; and

WHEREAS, the Applicant removed three Town-regulated trees when fill was imported to the site; and

WHEREAS, the imported fill material was not approved nor properly documented prior to importation; and

WHEREAS, the Town requested that the Applicant and their consultant characterize the imported material in accordance with NYSDEC Regulations and Standards; and

WHEREAS, the Applicant’s consultant, JMC Planning Engineering Architecture and Land Surveying, PLLC (JMC), submitted a Soil Sampling Work Plan to the Town of North Castle on July 21, 2022; and

WHEREAS, the Work Plan was approved in August 2022 by the Town’s Hydrogeologist (HES) and the Town shortly after submission; and

WHEREAS, JMC, on behalf of the Applicant, implemented the approved Soil Sampling Work

***Site Plan, Steep Slope Permit and Tree Removal Permit Approvals for***

26 Chestnut Ridge Road [2021-035]

January 30, 2023

Page 2 of 8

Plan on August 8, 2022, and provided a site plan of soil sampling locations, a soil laboratory analytical results summary table, the raw laboratory analytical results, and resubmitted the original approved July 21, 2022 Scope of Work; and

WHEREAS, the summary tables provided, and the raw laboratory analytical results indicate that with the exception of nickel at soil sampling locations Comp-1, C-1, Comp-2, C-2 and Comp-3, C-3 all other parameters analyzed for are in accordance with NYSDEC DER-10 and meet Unrestricted Use Soil Cleanup Objectives (UUSCOs); and

WHEREAS, all the collected soil samples were compliant with Restricted Residential Use Soil Cleanup Objectives (RRUSCOs) as noted on the attached Soil Laboratory analytical results summary tables; and

WHEREAS, the soil sampling was conducted in accordance with NYSDEC Requirements and the approved Soil Sampling Work Plan; and

WHEREAS, the results indicate that the fill material is not impacted by any of the parameters analyzed for including volatile organic compounds (VOCs), semi-VOCs, Metals (except nickel), Pesticides and Poly Chlorinated Biphenyls (PCBs); and

WHEREAS, nickel exceeded UUSCOs at three of the composite soil sampling locations, all other sampling locations were compliant with UUSCOs; and

WHEREAS, the concentrations of nickel detected in the three composite samples ranged from 36 to 68 parts per million (ppm {mg/Kg}) and the results slightly exceed the UUSCO of 30 ppm for nickel, the strictest soil cleanup objective; and

WHEREAS, these results represent slightly above background levels for nickel concentrations in soil in a suburban area and as per Part 375 Table 373-6.8(b), protection of human health (140 ppm) and groundwater (130 ppm) criteria are met in the imported fill material as the highest concentration of 68 ppm is well below both NYSDEC promulgated criteria; and

WHEREAS, HES recommended to the Planning Board that the imported fill material remain in place since nickel slightly exceeded UUSCOs; and

WHEREAS, HES recommended to the Planning Board the installation of a demarcation layer such as orange polyethylene construction fencing or a comparable geotextile membrane over the top of the entire fill area; and

WHEREAS, HES recommended to the Planning Board that following the placement of the demarcation layer, a 24-inch topsoil layer should be placed atop the demarcation layer across the entire fill area; and

***Site Plan, Steep Slope Permit and Tree Removal Permit Approvals for***

26 Chestnut Ridge Road [2021-035]

January 30, 2023

Page 3 of 8

WHEREAS, HES confirmed with the Region 3 Office of the NYSDEC on October 20, 2022 that the soil can remain in place with a 24-inch clean topsoil cap since nickel exceeded UUSCOs; and

WHEREAS, HES did not recommend removal of the imported fill given the results of the soil sampling, as the concentrations of nickel do not pose a threat to groundwater or the surrounding environment; and

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

- Plan labeled “C-000,” dated February 17, 2022, last revised November 30, 2022, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-100,” entitled “Existing Conditions Map,” dated February 17, 2022, last revised November 30, 2022, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-200,” entitled “Site Plan,” dated February 17, 2022, last revised November 30, 2022, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-201,” entitled “Alternate Site Plan,” dated November 30, 2022, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- 
- Plan labeled “C-900,” entitled “Construction Details,” dated February 17, 2022, last revised November 30, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-901,” entitled “Construction Details,” dated May 23, 2022, last revised November 30, 2022, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Letter Dated June 23, 2021 from Phoenix Environmental Laboratories, Inc.
- Stormwater Report dated February 18, 2022, last revised May 19, 2022, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Document entitled “Technical Report,” dated May 9, 2022, prepared by York Analytical Laboratories Inc.

WHEREAS, the Planning Board, pursuant to §355-44 of the North Castle Code, conducted a duly noticed public meeting on November 28, 2022, December 12, 2022 and January 30, 2023 with respect to the site plan, 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

**Site Plan, Steep Slope Permit and Tree Removal Permit Approvals for**

26 Chestnut Ridge Road [2021-035]

January 30, 2023

Page 4 of 8

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 tree removal permit approvals, as described herein, are hereby conditionally approved, subject to the following conditions and modifications; 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 shall be revised to depict the installation of a demarcation layer such as orange polyethylene construction fencing or a comparable geotextile membrane over the top of the entire fill area to the satisfaction of the Town Engineer.
- \_\_\_\_\_ 2. The site plan shall be revised to depict a 24-inch topsoil layer placed atop the demarcation layer across the entire fill area to the satisfaction of the Town Engineer. The area of disturbance shall not be expanded from existing conditions to accommodate the newly required fill. The Applicant shall remove 24 inches of existing fill and replace will clean fill so that the fill area is not expanded.
- \_\_\_\_\_ 3. The Applicant shall prepare a covenant, to the satisfaction of the Town Attorney, declaring that the site contains fill that exceeds the Unrestricted Use Soil Cleanup Objectives (UUSCOs) for nickel and that a demarcation line and 24-inch clean fill cap has been placed on top of the original fill. The covenant shall be filed with the Westchester County Clerk. **[This condition was discussed at Planning Board meetings, but it was unclear whether the PB wished to include this condition in the resolution]**
- \_\_\_\_\_ 3. **Plan C-200 (or C-201) shall be removed from the plan set to be signed. Plan C-201 (or C-200) shall be implemented on site.**

**Site Plan, Steep Slope Permit and Tree Removal Permit Approvals for**

26 Chestnut Ridge Road [2021-035]

January 30, 2023

Page 5 of 8

- \_\_\_\_\_ 4. The applicant will need to obtain a Fill Permit for the additional cap material to be imported to the site. The applicant should be accompanied by an analysis of the material in accordance with NYSDEC Regulations and Standards, to the satisfaction of the Town Engineer.
- \_\_\_\_\_ 5. The submitted landscaping plan shall be revised, to the satisfaction of the Planning Department, to relocate the proposed green giants at the bottom of the fill pad and place them in a location that will receive adequate light.
- \_\_\_\_\_ 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 a single PDF file 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. Payment of all applicable fees, including any outstanding consulting fees, pursuant to the master fee schedule.

**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 Applicant will need to obtain a fill permit from the Building Department.
- \_\_\_\_\_ 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.

***Site Plan, Steep Slope Permit and Tree Removal Permit Approvals for***

26 Chestnut Ridge Road [2021-035]

January 30, 2023

Page 6 of 8

**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.
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

***Site Plan, Steep Slope Permit and Tree Removal Permit Approvals for***

26 Chestnut Ridge Road [2021-035]

January 30, 2023

Page 7 of 8

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.
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.

**Site Plan, Steep Slope Permit and Tree Removal Permit Approvals for**

26 Chestnut Ridge Road [2021-035]

January 30, 2023

Page 8 of 8

\*\*\*\*\*

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Anthony & Melanie Marino

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