



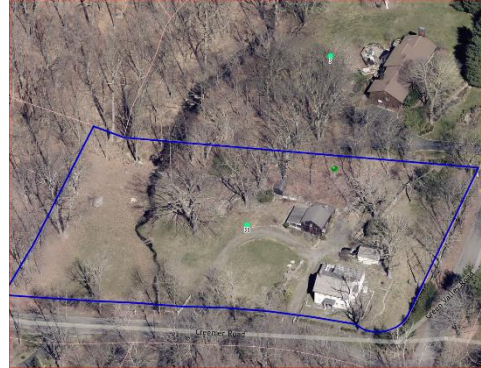
APPLICATION NUMBER - NAME
#2022-008 – 38 Creemer Road - Dempsy
Accessory Apartment Special Permit and Site
Plan Approvals

MEETING DATE
February 13, 2023

PROPERTY ADDRESS/LOCATION
38 Creemer Road

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	New Detached Accessory Apartment	2 acres

PROPERTY HISTORY

Existing Single Family Home with accessory buildings

1996 – Accessory Apartment approved in existing detached structure

2016 - Accessory Apartment approved in existing detached structure

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.

<u>Procedural Comments</u>	<u>Staff Notes</u>
<ol style="list-style-type: none"> 1. The Proposed Action would be classified as a Type II Action pursuant to the State Environmental Quality Review Act (SEQRA). 2. A public hearing regarding the proposed special permit will need to be scheduled. 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. 4. A small portion of the property is located in a floodplain. The Applicant will need to obtain a floodplain development permit from the Building Department. 	
<p><u>General Comments</u></p> <ol style="list-style-type: none"> 3. 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 4. The Building Department has determined that the existing detached accessory structure is a new structure and must comply with the current Town Code. As such, the Applicant has submitted an application to establish an accessory apartment in the new detached accessory structure. Pursuant to Section 355-40.K(4) of the Town Code, accessory apartments are not permitted to be located in an accessory structure unless the structure was constructed prior to October 11, 1984. 5. In addition, the Applicant will need to seek a special permit to construct a detached structure that is larger than 800 square feet and one story in height. 6. The site contain a stream. Streams are considered a wetland. The site plan should be revised to depict the 100-foot regulated setback from the stream. It is not clear whether a wetlands permit would be required for the new accessory building. 7. The Applicant shall submit an exhibit (or plan note/calculation) demonstrating that the proposed accessory building does not exceed 25% of the floor area of the main building. 8. 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. 9. Pursuant to Section 355-40.K(8) of the Town Code, any principal or accessory building in which an accessory apartment is proposed shall meet all applicable setback requirements and other standards for the district in which it is located. The site plan should be revised to include a zoning conformance chart and should dimension the distance of the accessory structure to adjacent property lines. 10. The Applicant will need to submit gross land coverage and gross floor area calculations worksheet and backup exhibits. 	<p>The Applicant should confirm that one of the units will be occupied by the property owner.</p> <p>The Applicant will need to seek a variances from this provision of the Town Code.</p> <p>The Planning Board has the ability to approve more than one story and up to a height of 22 feet.</p> <p>The Applicant shall provide the required analysis for review by the Planning Department.</p> <p>The Applicant will need to obtain a variance from the Zoning Board of Appeals.</p>
<ol style="list-style-type: none"> 11. 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. 	<p>The Applicant shall provide the required analysis for review by the Planning Department.</p>

12. 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.
13. 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.
14. 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.
15. Pursuant to Section 355-40.K(16) of the Town Code, a special permit uses for accessory apartments shall terminate upon change of ownership.
16. 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.