



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

RESOLUTION

Action: Special Use Permit for Accessory Apartment and Tree Removal Permit
Application Name: 42 Sarles St. Accessory Apartment [#2023-010]
Owner/Applicant: North Castle 42 LLC
Designation: 101.01-1-77
Zone: R-2A District
Acreage: 11.85 acres
Location: 42 Sarles Street
Date of Approval: May 22, 2023
Expiration Date: May 22, 2024

WHEREAS, an application dated February 27, 2023 for Special Use Permit approval was submitted to the Planning Board and the requisite fee was paid; and

WHEREAS, the application consists of the following plans:

- Plan labeled “SP-1.00,” entitled “Site Plan,” dated February 27, 2023, prepared by Teo Sigüenza Architect.
- Plan labeled “A-101,” entitled “First Floor Plan,” dated February 27, 2023, prepared by Teo Sigüenza Architect.
- Plan labeled “A-102,” entitled “Proposed Floor Plans,” dated February 27, 2023, prepared by Teo Sigüenza Architect.
- Plan labeled “A-200,” entitled “Front Elevation,” dated February 27, 2023, prepared by Teo Sigüenza Architect.
- Plan labeled “A-201,” entitled “Rear Elevation,” dated February 27, 2023, prepared by Teo Sigüenza Architect.
- Plan labeled “A-202,” dated February 27, 2023, prepared by Teo Sigüenza Architect.
- Plan labeled “A-203,” entitled “Left Side Elevation,” dated February 27, 2023, prepared by Teo Sigüenza Architect.
- Plan entitled “Progress As-Built,” dated January 19, 2023, prepared by Insite Engineering, Surveying * Landscape Architecture, P.C.

WHEREAS, the proposal consists of the reapproval of a detached accessory apartment; and

WHEREAS, the existing driveway and access to the site will remain unchanged; and

WHEREAS, Special Use Permit approval is necessary because the Planning Board has jurisdiction over all accessory apartments; and

WHEREAS, the site plan does depicts the removal of 33 Town-regulated trees; and

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

WHEREAS, the site plan does not depict Town-regulated wetland or buffer disturbance; and

WHEREAS, the Town Board created a local law to permit accessory apartments in single-family residence districts in order to provide opportunity and encouragement for the development of small rental housing units designed to meet the special housing needs of persons of low- and moderate-income, especially the young and the old, and of relatives of families living in North Castle; and

WHEREAS, accessory apartments allow the more efficient use of the Town's existing stock of dwellings and accessory buildings, to provide economic support for present families of limited income and thereby promote the protection and preservation of property values; and

WHEREAS, the 11.85 acre property is located in the R-2A district and is designated on the Tax Maps of the Town of North Castle as lot 101.01-1-77; and

WHEREAS, a short Environmental Assessment Form was prepared by the Applicant and submitted to the Planning Board for its review and consideration; and

WHEREAS, the proposed action is a Type II Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, Type II Actions have been determined not to have a significant impact on the environment do not require any further processing pursuant to SEQRA; and

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); and

WHEREAS, the application was referred to the County Planning Board on May 8, 2023; and

WHEREAS, the County referral was for a minor "Notification Only" project and a response was not provided to the Town; and

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

WHEREAS, the Applicant has not meet the minimum requirements of Section 355-40.K(4)(b) of the

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Town Code; and

WHEREAS, the Applicant obtained a variance from this section of the Town Code on May 4, 2023; and

WHEREAS, a duly advertised public hearing was held on May 22, 2023, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Planning Board has requested, received and considered comments from the Town Attorney, the Consulting Town Engineer and the Town Planner regarding the proposed development; and

NOW, THEREFORE, BE IT RESOLVED, that the application for special use permit, as described herein, be and is 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 are laid out so as to achieve maximum convenience and safety; and

BE IT FURTHER RESOLVED, that pursuant to Article VII of Chapter 355 of the Town Code, this special use permit shall be deemed to authorize only the particular use(s) shown on the approved site plan and shall expire if work is not initiated in accordance therewith within one (1) year, or if the use(s) for which site plan approval was granted ceases for more than one (1) year from the date of the issuance of the certificate of occupancy, or if all required improvements are not completed within eighteen (18) months of the date of this approval, or if all such required improvements are not

maintained and all conditions and standards of this approval are complied with throughout the duration of the use(s).

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. Pursuant to Section 355-40.K(11) of the Town Code, the Applicant shall demonstrate, to the satisfaction of the Planning Department, 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.
- _____ 2. The plans shall illustrate the limit of disturbance for all septic, utility or other improvements associated with the application to the satisfaction of the Town Engineer. The disturbance limits shall also illustrate the existing (actual) site disturbance for the project presently under construction to the satisfaction of the Town Engineer.
- _____ 3. The applicant shall prepare an erosion and sediment control plan for the site disturbance associated with the proposed septic and utility work to the satisfaction of the Town Engineer.
- _____ 4. The project site is presently under construction from prior site plan approvals [Residential Project Review Committee (RPRC)]. Work under the prior permits include field changes which have not been approved by the Town Engineer or the Town RPRC. The applicant shall document all field changes under the active permit and submit to the RPRC for approval of the modifications to the satisfaction of the Town Engineer.
- _____ 5. Payment of all outstanding fees, including professional review fees.
- _____ 6. The applicant shall submit to the Planning Board Secretary one set of electronic PDF plans (with required signature block for endorsement by the planning board chair and consulting town engineer located in the lower right corner of all plan sheets) 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 shall obtain Westchester County Department of Health (WCHD) Approval for the proposed improvements to the existing septic system servicing the accessory structure and any domestic wells servicing the project to the satisfaction of the Town Engineer. If the existing well will be used to service the apartment, then the water service between the main house and accessory structure should be shown on the plan.

- _____ 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.

- _____ 3. The approved site plan shall be signed by both the Planning Board Chair and Town Engineer.

- _____ 4. The submission of a complete set of building plans for review and approval by the Town Building Inspector prior to the issuance of a building permit.

- _____ 5. Payment of all outstanding fees, including professional review fees.

Prior to the Issuance of a Certificate of Occupancy:

(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 submission to the Town Building Inspector of an "As Built" site plan.
- _____ 3. Payment of all outstanding fees, including professional review fees.

Other Conditions:

1. Compliance with all applicable local laws and ordinances of the Town of North Castle and any conditions attached to permits issued thereunder.
2. 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 that the intent of the Town Code are fulfilled.
3. No more than one accessory apartment per lot is permitted.
4. 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.
5. 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.
6. Special permit uses for accessory apartments shall terminate upon change of ownership.

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

Date

North Castle 42 LLC

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

Date

Joseline Huerta, Planning Board Secretary
Certified as Approved by the North Castle Planning Board

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, Chair