



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

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PLANNING BOARD
Christopher Carthy, Chair

RESOLUTION

Action: Preliminary Subdivision Plat Approval, Steep Slope Permit and Tree Removal Permit
Application Name: 32 Orchard Drive Subdivision [2023-014]
Owner: Wael Alesawy
Applicant: 32 Orchard Drive Armonk, LLC
Designation: 108.01-3-1
Zone: R-1A (Residential, 1 Acre Minimum Lot Size) District
Acreage: 12.9 acres
Location: 32 Orchard Drive
Date of Approval: March 25, 2024
Expiration Date: September 25, 2024 (6 Months)

WHEREAS, applications dated April 9, 2023 for preliminary subdivision plat, steep slope permit and tree removal permit approvals were submitted to the Planning Board and the application fees were paid; and

WHEREAS, the application consists of the following drawings:

- Plan labeled "Sheet 1 of 3," entitled "Preliminary Plan," dated September 21, 2023, prepared by Ralph G. Mastromonaco, P.E., P.C.
- Plan labeled "Sheet 2 of 3," entitled "Erosion Control Plan," dated September 21, 2023, prepared by Ralph G. Mastromonaco, P.E., P.C.
- Plan labeled "Sheet 3 of 3," entitled "Details/Notes/Road Profile," dated September 21, 2023, prepared by Ralph G. Mastromonaco, P.E., P.C.
- Plan entitled "Contiguous Buildable Area/Slope Map," dated September 21, 2023, prepared by Ralph G. Mastromonaco, P.E., P.C.
- Plan entitled "Lot Width Calculations," dated September 21, 2023, prepared by Ralph G. Mastromonaco, P.E., P.C.

WHEREAS, the subject application involves a proposed five lot subdivision of a 12.9 acre lot located in the R-1A Zoning District with proposed well and septic; and

WHEREAS, the existing house is proposed to remain and four additional single family lots are proposed to be created; and

WHEREAS, the subdivision will create Lot 1 of approximately 2.39 net acres, Lot 2 of approximately 3.5 net acres, Lot 3 of approximately 1.60 net acres, Lot 4 of approximately 1.50 net acres and Lot 5 of approximately 1.84 net acres; and

WHEREAS, all three proposed lots will be accessed via individual driveways onto a new private road accessed off of Orchard Drive; and

Preliminary Subdivision Plat Approval, Steep Slope Permit and Tree Removal Permit

32 Orchard Drive [2023-014]

March 25, 2024

2 of 9

WHEREAS, the new road will not be dedicated to the Town of North Castle since it does not meet the minimum requirements for a Town Road; and

WHEREAS, the lots will be provided with individual on-site septic systems and wells; and

WHEREAS, pursuant to Section 239-y.3.a of NYS General Municipal Law, the Planning Board referred this application to the Conservation Board on September 12, 2023 to review the application with respect to the proposed use or development of the open area in terms of the open area planning objectives of the Town; and

WHEREAS, the Planning Board did not receive a response from the Conservation Board; and [IT IS NOT CLEAR WHETHER THE APPLICANT MET WITH THE CONSERVATION BOARD]

WHEREAS, pursuant to Section 275-23, Section 255-14.G and Section 355-21 of the Town Code, Lot 3 is required to have frontage on an improved street; and

The Applicant obtained permission to create a lot with no frontage pursuant to the provisions of Section 280-A of the New York State Town Law from the Zoning Board of Appeals on February 1, 2024; and

WHEREAS, pursuant to Section 275-25 all new streets should be provided with pavement, sidewalks, curbs, gutters, streetlighting, signs, trees, storm drains, fire alarm devices, fire hydrants and other utilities, except that the Planning Board may waive such improvements as it considers not requisite in the interest of the public health , safety and welfare; and

WHEREAS, given the location of the proposed subdivision and the lack of available infrastructure, the Planning Board finds it appropriate to waive the following: sidewalks, streetlights, street trees, fire alarm devices and fire hydrants; and

WHEREAS, during the public hearing several residents expressed concern with respect to the new wells proposed and the impact the new wells would have upon existing surrounding wells; and

WHEREAS, the Planning Board directed the staff to reach out to the Town's Hydrogeologist to review the situation; and

WHEREAS, the Town's Hydrogeologist recommended that the Applicant provide the Town with a Water Supply Assessment Work Plan that includes drilling a set number of wells on the property, proposing to pump them at twice the daily demand (likely a 24-hour test), and follow NYSDEC and WCDOH Water Supply Assessment protocol; and

Preliminary Subdivision Plat Approval, Steep Slope Permit and Tree Removal Permit

32 Orchard Drive [2023-014]

March 25, 2024

3 of 9

WHEREAS, the Applicant prepared a well suitability assessment that concludes that the water demand from the new wells at 32 Orchard Drive will not exceed the recharge from all sources; and

WHEREAS, the computations indicate there would be a daily demand for water of 1,750 gallons which is below the recharge of 3,042 gallons per day and indicates that the wells would have little or no impact on other wells in the area; and

WHEREAS, the Town Engineer AGREES/DISAGREES with the Applicant's well suitability assessment; and

WHEREAS, the Applicant is requesting a waiver of the regulations for the common driveway platform and vertical curve length at the common driveway's intersection with Orchard Drive; and

WHEREAS, XXX Town-regulated trees, XX of which are Town-regulated Significant Trees are proposed to be removed for the proposed subdivision; and

WHEREAS, X,XXX square feet of Town-regulated steep slope disturbance is proposed; and

WHEREAS, no Town-regulated wetland or wetland buffer disturbance is proposed; and

WHEREAS, the applicant submitted a Short Environmental Assessment Form (EAF) in connection with the application dated April 9, 2024; and

WHEREAS, the Proposed Action would be classified as an Unlisted Action pursuant to the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Planning Board elected to conduct an uncoordinated SEQRA review; and

WHEREAS, a duly advertised public hearing on said application was opened on February 26, 2024 and closed on March 25, 2024 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Planning Board has inspected the site and is familiar with the nature of the site and the surrounding area; and

WHEREAS, the Planning Board has determined that the proposed addition of four (4) new single-family lots will contribute to the existing unmet need for additional park and recreational facilities in the Town, which need cannot be met on the subject property in accordance with the provisions of 275-27.A of the Town of North Castle Town Code given its size and characteristics, and on that basis, has determined that the best interests of the Town and future residents of the proposed subdivision will be better served by requiring a cash payment to be earmarked for park, playground and/or other recreational purposes; and

WHEREAS, the Planning Board has received and considered comments from the public, Town Attorney, Town Engineer and Town Planner; and

WHEREAS, the requirements of the Land Subdivision Regulations, the Zoning Ordinance and the *Town of North Castle Comprehensive Plan* have been met by the application; and

WHEREAS, under the Town Law the approval of said preliminary subdivision plat by this Planning Board does not affect the power of the Town to change zoning regulations, nor act as an assurance of the granting of any building permits;

NOW THEREFORE BE IT RESOLVED, that based upon its review of the full environmental record the Planning Board finds that the proposed action will not result in any significant adverse environmental impacts and hereby adopts a Negative Declaration pursuant to the requirements of Article 8 of the New York State Environmental Quality Review Law and 6 NYCRR Part 617; and

BE IT FURTHER RESOLVED, that given the location of the proposed subdivision and the lack of available infrastructure, the Planning Board waives the following: sidewalks, streetlights, street trees, fire alarm devices and fire hydrants pursuant to Section 275-75 of the Town Code; and

BE IT FURTHER RESOLVED, that the Planning Board hereby grants a waiver of the private road platform and vertical curve length standards pursuant to Section 275-8 of the Town Code; and

BE IT FURTHER RESOLVED, that the preliminary subdivision plat, steep slope permit and tree removal permit approvals, as described herein, be and are hereby conditionally approved, subject to the following conditions and modifications; and

BE IT FURTHER RESOLVED, that this preliminary subdivision plat, steep slope permit and tree removal permit approval shall expire six months from the date of this resolution unless an application for final subdivision plat approval is submitted to the Planning Board prior to the end of such time period or unless a written request for an extension of preliminary subdivision plat is granted by the Planning Board.

Conditions to be Completed Before the Final Plat is Submitted/Signing of the Preliminary Plat *(The Planning Board Secretary's initial and date shall be placed in the space below to indicate that the condition has been satisfied.)*

1. The Applicant is requesting a waiver of the regulations for the private road platform and vertical curve length at the road's intersection with Orchard Drive. Prior to considering the waiver, the Applicant shall examine a second alternative which would include a longer 4% platform, a reduction in the length of the crest curve VC #2 and the shifting of vertical curve VC #1 to share a common tangent point with curve VC #2 to the satisfaction of the Town Engineer.

2. The driveway proposed to service Lot #5 will intersect Orchard Drive directly adjacent to the common driveway serving Lots #1 - #4. The Applicant shall examine clearing and regrading which will be required to obtain adequate sight distance to the west to the satisfaction of the Town Engineer. Furthermore, the Planning Board may

wish to consider limiting driveway curb cuts along Orchard Drive. The Applicant shall examine relocating the lower portion of the Lot #5 driveway to intersect the lower portion of the common driveway.

- _____ 3. A point discharge of runoff from the stormwater basin onto Orchard Drive is not acceptable since it will add an additional concentrated flow to this existing problem area. The Applicant shall examine extending the drainage system from the proposed stormwater basin along Orchard Drive to Whippoorwill Brook to the satisfaction of the Town Engineer.
- _____ 4. The Applicant shall explain whether on-site soil testing was performed and the likelihood of obtaining compliant septic systems and stormwater treatment systems on each lot to the satisfaction of the Town Engineer.
- _____ 5. The proposed lot development for Lot #1 includes a house, driveway and rear yard amenities, which can't drain to the stormwater treatment basin. The Applicant shall address stormwater mitigation for Lot #1 to the satisfaction of the Town Engineer.
- _____ 6. Site development design for each building lot shall be provided to the satisfaction of the Town Engineer. Designs shall include a realistic house size, septic location based on soil tests, well location, stormwater treatment, erosion and sediment controls, site grading and driveway profiles. It is advisable to consider pool sites if available.
- _____ 7. The Integrated Plot Plan shall provide drainage improvements for the collection and piping of runoff from the proposed residences and driveways on Lots #2, #3 and #4 to the satisfaction of the Town Engineer.
- _____ 8. The Applicant shall demonstrate that proposed Lot 2 conforms with all zoning requirements pursuant to Section 355-14.C of the Town Code. Specifically, the Applicant shall submit a gross land coverage calculations backup exhibit and a gross floor area calculations worksheet and backup information to the satisfaction of the Planning Department.
- _____ 9. The property contains Town-regulated trees. The Applicant shall submit a tree plan that depicts the location of all Town-regulated trees and depicts proposed removal/preservation of Town-regulated trees. In addition, the plan shall be accompanied by a Tree Survey that identifies the size, species and removal status of Town-regulated trees. The Applicant shall attempt to preserve as many trees as possible within the subdivision. The submitted IPP shall include proposed clearing and grading limit lines to clarify the location of anticipated impacted areas to the satisfaction of the Planning Department.

- _____10. The property contains Town-regulated steep slopes. The plan shall quantify, in square feet, the proposed amount of Town-regulated steep slope disturbance to the satisfaction of the Planning Department.
- _____11. The Applicant shall submit an impact analysis matrix for the subdivision that includes total disturbance, steep slope disturbance, cut/fill and tree removal for each lot and the road right-of-way to the satisfaction of Town Engineer and Planning Department. The plans shall be refined to depict potential grading associated with proposed houses and mowed/graded yard areas.
- _____12. The property abuts the Townsend burial ground. The Applicant has agreed to provide an access easement to this burial ground from a public road over the Applicant's property. The applicant shall submit an easement, in recordable form satisfactory to the Town Attorney.
- _____13. Based upon the answer to question 12 of the submitted EAF, the Applicant shall perform a Phase 1A archeological survey to the satisfaction of the Planning Department. Depending upon the results of the Phase 1A study, the Applicant may be required to conduct a Phase 1B reconnaissance survey.
- _____14. Submission of a Stormwater Pollution Prevention Plan Report to the satisfaction of the Town Engineer.
- _____15. Payment of all applicable fees, including any outstanding consulting fees.
- _____16. The applicant shall furnish the necessary documentation confirming that all taxes assessed against the property have been paid.
- _____17. The plat shall be referred to the Tax Assessor for review and for the assignment of the new tax lot numbers. The plat shall be revised per the Assessor as required and all new tax lot numbers shall be placed on the subdivision plat.

Conditions to be Completed Before the Final Plat is Signed

(The Planning Board Secretary's initial and date shall be placed in the space below to indicate that the condition has been satisfied.)

1. The applicant shall be required to submit an agreement, in recordable form satisfactory to the Town Attorney, concerning the construction, maintenance and inspection of the features of the stormwater management plan. Such agreement shall specify that a homeowners association (or the individual property owners) shall be responsible in perpetuity for maintenance of the stormwater management and conveyance system to the satisfaction of the Town Engineer. Such responsibility shall be shared equally by the homeowners in the subdivision.
2. The applicant shall submit a permanent easement agreement, in recordable form satisfactory to the Town Attorney, providing for access by a homeowner's association (or the individual

property owners) and/or the Town of North Castle, if necessary, to perform maintenance of the features of the stormwater management system and conveyance.

3. The Applicant shall secure approval and endorsement of the plat by the Westchester County Department of Health. All plans submitted to the Westchester County Department of Health for review and approval shall reflect the identification of all wetland boundaries and their respective surrounding regulated areas. A copy of the integrated plot plan containing the endorsement of the Westchester County Department of Health shall be submitted to the Town Engineer prior to the signing of the final linen.
4. The applicant shall provide approvals from the WCHD for the subdivision, proposed on-site wastewater treatment systems and wells to the satisfaction of the Town Engineer.
5. The applicant shall produce a Final Subdivision Plat in accordance with the provisions of Section 275-33 of the North Castle Land Subdivision Regulations, and Final Construction Plans in accordance with 275-16 of the Town Land Subdivision Regulations.
6. Submission to the Planning Board of a suitable legal agreement, in 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 construction and maintenance of the common stormwater infrastructure, the amount of said bond or other security to be determined by the Town Board. Such bond shall be released after construction of the stormwater infrastructure to the satisfaction of the Town.

In the event that the issuer of the bond or other security furnished to the Town hereunder becomes insolvent or, for any reason, disaffirms the validity of such security, the applicant shall notify the Town Board immediately and replace the invalid security with a new bond or other security acceptable to the Town Board within thirty (30) days thereafter. The existence of a valid bond, letter of credit or other security shall be a condition precedent to the validity of any permits issued or to be issued in connection with this subdivision.

7. The applicant shall submit payment of the recreation fee in the amount of ten-thousand dollars (\$10,000) for each new building lot, for a total of \$40,000 as stated in Section 275-17 of the Town Code.
8. The final plat shall be accompanied by a detailed quantity cost estimate for all improvements proposed in the subdivision, including, but not limited to, the road, stormwater facilities and water main, with the quantities certified to by the applicant's engineer.
9. The Applicant shall furnish the necessary documentation confirming that the plat can be filed immediately, that there are not liens on the plat whatsoever, or any other impediments to the filing of the Plat with the County Clerk.

Other Conditions:

1. All references to "the Applicant" shall include the Applicant's successors and assigns.
2. Prior to the start of construction and throughout the construction period, area of disturbance lines shall be clearly delineated in the field by installing snow fence or another demarcation acceptable to the Town Engineer 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.

Preliminary Subdivision Plat Approval, Steep Slope Permit and Tree Removal Permit

32 Orchard Drive [2023-014]

March 25, 2024

9 of 9

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

Date Wael Alesawy, Owner

Date 32 Orchard Drive Armonk, LLC, Applicant

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

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

KSCJ CONSULTING P.C.
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