



**TOWN OF NORTH CASTLE**  
**WESTCHESTER COUNTY**  
**17 Bedford Road**  
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**PLANNING BOARD**  
**Christopher Carthy, Chair**

## **RESOLUTION**

**Action:** Preliminary Subdivision Plat Approval  
**Application Name:** 21 Whippoorwill Road Two Lot Subdivision [2023-037]  
**Owner/Applicant:** Amin Majidi & Michelle Falkenstein  
**Designation:** 107.04-1-11  
**Zone:** R-2A (Residential, 2 Acre Minimum Lot Size) District  
**Acreage:** 6.07 acres  
**Location:** 21 Whippoorwill Road  
**Date of Approval:** January 8, 2024  
**Expiration Date:** July 8, 2024 (6 Months)

WHEREAS, an application dated October 6, 2023 for preliminary subdivision plat approval was submitted to the Planning Board and the application fees were paid; and

WHEREAS, the application consists of the following drawings:

- Plan labeled “C-000,” entitled “Cover Sheet,” dated October 6, 2023, last revised December 22, 2023, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-010,” entitled “Existing Conditions Map,” dated October 6, 2023, last revised December 22, 2023, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-020,” entitled “Environmental Constraints Map,” dated October 6, 2023, last revised December 22, 2023, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-100,” entitled “Integrated Plot Plan,” dated October 6, 2023, last revised December 22, 2023, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-110,” entitled “Preliminary Subdivision Plat,” dated October 6, 2023, last revised December 22, 2023, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-120,” entitled “Gross Land Coverage Calculation Plan,” dated November 27, 2023, last revised December 22, 2023, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-200,” entitled “Conceptual Grading and Utilities Plan,” dated November 27, 2023, last revised December 22, 2023, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.
- Plan labeled “C-300,” entitled “Conceptual Sediment & Erosion Control Plan,” dated October 6, 2023, last revised December 22, 2023, prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC.

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WHEREAS, the subject application involves an application for preliminary subdivision approval of a two lot residential subdivision in the R-2A Zoning District; and

WHEREAS, the site is currently a 6.07 acre lot developed with a single family home; and

WHEREAS, the subdivision will create Lot 1 of approximately 4.00 net acres, Lot 2 of approximately 2.00; and

WHEREAS, Lot 2 will be accessed off of Whippoorwill Road and Lot 1 will continue to be accessed via Whippoorwill Road; and

WHEREAS, the subdivision will be served by private wells; and

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

WHEREAS, the site plan was forwarded to the Sewer and Water Department so that they may make any pertinent recommendations to the Planning Board including, but not limited to, the ability to provide water for the proposed lot; and

WHEREAS, the Sewer and Water Department has reviewed the site plan and notes that an easement will need to be created for the water service; and

WHEREAS, the plans depict the location of a Town-regulated wetland, which has been verified by the Town Wetland Consultant; and

WHEREAS, the property is located within the New York City Department of Environmental Protection (NYCDEP) Kensico Watershed.

WHEREAS, the Applicant has solicited comments from the NYCDEP regarding whether the proposal complies with the NYCDEP Watershed regulations; and

WHEREAS, the Applicant has provided documentation from NYCDEP indicating that a SPPP would not be required by NYCDEP; and

WHEREAS, a future driveway, electric service and sight line clearing may be located within the wetland buffer and would require the issuance of a wetlands permit at the time of proposed house construction; and

WHEREAS, the applicant submitted a Short Environmental Assessment Form (EAF) in connection with the application dated October 6, 2023; 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 determined to conduct an uncoordinated SEQRA review; and

WHEREAS, a duly advertised public hearing on said application was conducted on January 8, 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 one (1) new single-family lot 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 *1996 Town of North Castle Comprehensive Update* 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 the preliminary subdivision plat approval, as described herein, be and is hereby conditionally approved, subject to the following conditions and modifications; and

BE IT FURTHER RESOLVED, that this preliminary subdivision plat 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. Provide construction details for all proposed improvements, including, but not limited to, driveway, drainage, curbing, pavement restoration, walkways, sewer and water services, erosion controls, etc. to the satisfaction of the Town Engineer.
- \_\_\_\_\_2. The Applicant shall submit a preliminary plat that conforms to the minimum requirements of Section 275-30 of the North Castle Town to the satisfaction of the Planning Department and Town Engineer.
- \_\_\_\_\_3. The conceptual grading and utilities plan shall be revised to demonstrate how safe sight lines of 200 feet can be obtained to the satisfaction of the Town Engineer. The Applicant shall examine relocating the driveway curb cut further to the north in the vicinity of the proposed northern property line, where sight lines could likely be obtained with much less clearing and grading to the south.
- \_\_\_\_\_4. The applicant shall be required to submit a water service easement between Lots 1 and 2, in recordable form satisfactory to the Town Attorney.
- \_\_\_\_\_5. Payment of all applicable fees, including any outstanding consulting fees.
- \_\_\_\_\_6. The applicant shall furnish the necessary documentation confirming that all taxes assessed against the property have been paid.
- \_\_\_\_\_7. 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 has requested postponement of preparing a SWPPP, until the time of application for Site Plan Approval. A preliminary analysis of the stormwater system has been prepared by the Applicant in an effort to confirm that adequate area is available to accommodate a stormwater mitigation system in the future. The system includes the use of a Cultec infiltration system within the rear yard.

The preliminary stormwater analysis shall be revised as follows to the satisfaction of the Town Engineer:

- The stormwater analysis evaluated a 25-year storm event. The applicant shall revise the analysis to address a 100-year storm event.

The applicant states that the system was amended to address the 100-year storm event, however, calculations were not provided and the size of the system appears unchanged.

- The proposed drainage area is stated as 0.21 acres in area, while the existing drainage area is 0.11 acres. The applicant shall explain this difference.

The applicant states that the calculations were amended, however, the amended calculations were not submitted.

- The proposed stormwater treatment system will be installed at a depth of eight (8) feet below grade. Such conditions will require soils with no bedrock or groundwater down to a depth eleven (11) feet below existing grade. The applicant shall perform soil testing within the area of the proposed stormwater treatment system to verify that adequate soil conditions exist to mitigate the stormwater.

The applicant requests performing soil testing at a later date. Testing is necessary to confirm that mitigation can be provided as proposed, and therefore should be performed prior to subdivision approval.

- Stormwater discharge from the treatment system is directed towards the neighboring residence to the west. Stormwater discharge shall be dispersed in a direction which will not impact neighboring homes.

The applicant notes that discharge from the site will be reduced upon installation of the stormwater mitigation. Discharge in the proposed condition, however, will be a concentrated point discharge which is directed at the neighboring home. The point discharge should be dispersed in a direction which will not impact neighboring homes.

2. The applicant shall provide proof that the water service easements have been executed and filed within the Westchester County Clerk's Office Division of Land Records to the satisfaction of the Town Attorney.
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 on-site 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. 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 \$10,000 as stated in Section 275-17 of the Town Code.
7. 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.
3. The Applicant shall obtain curb cut permits for any work on a Town Road.

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

\_\_\_\_\_  
Date Amin Majidi

\_\_\_\_\_  
Date Michelle Falkenstein

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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

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

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Date Christopher Carthy, Chair