


## MEMORANDUM

TO: North Castle Planning Board

CC: North Castle Conservation Board  
Adam Kaufman, AICP  
Mark and Joe Mazzotta  
James A. Ryan, RLA

FROM: Joseph M. Cermele, P.E., CFM   
Kellard Sessions Consulting  
Consulting Town Engineers

DATE: November 19, 2020

RE: Amended Site Development Plan Approval  
Mazzotta (Amore Pizza)  
1 Kent Place  
Section 108.03, Block 1, Lot 69

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As requested, Kellard Sessions Consulting has reviewed the site plans and application submitted in conjunction with the above-referenced project. The applicant is proposing to address certain zoning code violations and encroachments on adjacent properties related to construction within the subject property. The applicant has constructed various improvements without prior approval, including a patio, walkway, decorative walls and fountain and a storage shed. The ±0.39 acre property is located in the Central Business, CB, Zoning District.

### GENERAL COMMENTS

1. The owner has constructed a patio and wall at the rear of the property, located within five (5) feet of the rear and side lot lines. It appears an area variance from Section 355-15 A of the Town Code is required. This should be verified by the Building Department.
2. The plan proposes to remove a portion of a storage shed, which encroaches onto the adjacent Shell Station property. The final location of the shed will result in a zero lot line set back. A determination from the Building Department regarding the need for an area variance will be required.

3. The plan proposes to maintain an existing cooler, constructed at the rear of the restaurant building, which encroaches onto the adjacent property. This will result in a zero lot line set back. It appears an area variance will be required. This should be verified by the Building Department.
4. As illustrated on the plan and noted above there are a number of improvements that have been constructed on adjoining properties. The plan indicates various easements and agreements with the adjacent property owners that will permit these improvements to remain. Copies of any agreements should be provided to the Town for review by the Town Attorney.
5. The plan appears to have been coordinated with the proposed improvements for the Shell Station, currently before the Planning Board for Site Plan Approval. We note that should any modifications to the Shell Station plan be required for approval, the applicant will need to coordinate their plan for the subject property.
6. The property is bisected by a tributary to the Wampus River. This watercourse is a locally-regulated wetland, as well as a New York State Department of Environmental Conservation (NYSDEC) Class C stream. The plan shall illustrate the 100-foot regulated buffer and adjacent area. It appears that all improvements made were located entirely within the regulated area. A local Wetland Permit, as required by Chapter 340, Wetlands and Watercourse Protection of the Town Code, will be required. The applicant will be required to prepare a wetland mitigation plan to provide mitigation at a ratio of 2:1 for unavoidable disturbances within the wetland/wetland buffer. The plan shall illustrate and quantify the disturbances within the regulated buffer, as well as impervious and pervious surface area before and after the improvements were constructed. Once prepared for the Planning Board's review, we would recommend that the Planning Board refer the mitigation plan to the Conservation Board for review and recommendation of approval. The Planning Board and Conservation Board should determine whether the applicant will be required to provide a long-term monitoring and maintenance plan, for a period of at least five (5) years.
7. As illustrated on the plan, the project site is located almost entirely within the FEMA regulated floodplain of a tributary to the Wampus River with a base flood elevation (BFE) of Elevation 379.0. This tributary is also a FEMA regulated floodway as shown on the National Flood Insurance Program Flood Insurance Rate Map (FIRM) Nos. 36119C0164F and 36119C0277F, effective September 28, 2007. The plan shall be revised to illustrate the limits of the regulated floodway and include the appropriate FEMA map references. Based on the plan and available FEMA mapping, it appears that all prior, unapproved development was completed within the floodplain and a majority of the patio and wall was constructed within the floodway. As such, the applicant will be required to obtain a Floodplain Development Permit demonstrating compliance with Chapter 177 – Flood Damage Prevention of the Town Code. The applicant will be required to demonstrate that appropriate flood mitigation is provided as it relates to the required "no-rise" analysis and compensatory storage for fill placed within the floodplain; specifically:

- a. Section 177-14 (B)(2) requires that in order to permit development on streams with a regulatory floodway, the applicant shall provide:
  - i. a technical evaluation demonstrating that encroachment will not result in any increase in flood levels (“no rise”); or
  - ii. the Town agrees to apply to FEMA for a conditional FIRM and floodway revision.
- b. Section 177-14 (3) requires that whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation is compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation.

The applicant will be required to develop a pre- and post-comparison of the site and development within the floodway and provide the technical evaluations noted above.

- 8. The applicant will be required to provide appropriate stormwater mitigation for the previously completed improvements. A Stormwater Management Design Report and sizing calculations shall be provided for review. Depending upon the need for flood storage mitigation and how that may be provided by the applicant, it may be more beneficial to provide stormwater quality practices vs. additional detention above what will already be required to mitigate the floodplain development. We will defer comment until a plan has been provided. We note that the stormwater quality and quantity controls are not typically counted towards required floodplain and wetland mitigation.
- 9. The applicant will be required to perform deep and soil percolation testing, as required for the design of any stormwater practices. Soil testing shall be witnessed by this office. Please contact our office to schedule.
- 10. The plan shall be updated to include existing topography with spot grades is appropriate.
- 11. The plan shall include construction details for all improvements subject to this Amended Site Plan Approval, including the patio, walkway and walls, as well as any stormwater management systems that may be required.
- 12. The applicant will be required to provide an erosion and sediment control plan for any improvements that may become necessary. Provide details.

North Castle Planning Board  
November 19, 2020  
Page 4 of 4

As additional information becomes available, we will continue our review. It is noted that an itemized response to all comments will facilitate completeness and efficiency of review.

**PLAN REVIEWED, PREPARED JMC, DATED NOVEMBER 9, 2020:**

- SITE PLAN (S-1)

JMC/dc

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