



555 Theodore Fremd Ave, Suite C-301
Rye, NY 10580
T: 914.967.6540
www.hardestyhanover.com

MEMORANDUM

To: Bruce M. Flower, Chairman, and the Town of Wappinger Planning Board

Date: November 30, 2023

Subject: **33 Middlebush Road Site Plan Review**
Tax Lots 6157-01-414840 and 396837

As requested, we have prepared the attached **Resolution of Site Development Plan** for your review and consideration.

We look forward to discussing this resolution with you at the Planning Board meeting.

Malcolm Simpson
Planner

Attachments

cc: James Horan, Esq.
Barbara Roberti
Jon Bodendorf, PE
Michael Sheehan

**RESOLUTION
TOWN OF WAPPINGER PLANNING BOARD**

RE: 33 MIDDLEBUSH – RESOLUTION OF SITE DEVELOPMENT PLAN

At a regular meeting of the Planning Board of the Town of Wappinger, Dutchess County, New York, held at Town Hall, 20 Middlebush Road, Wappingers Falls, New York on the ____ day of _____, 2023 at 7:00 P.M.

The meeting was called to order by the Chairman Bruce M. Flower and the Planning Board member attendance was as follows:

Bruce M. Flower	_____
Robert Ceru	_____
Paul Freno	_____
Reinaldo Anjos	_____
Nicholas Maselli	_____
Markos Peratikos	_____
Lynne Versaci	_____

The following resolution was moved by _____ and seconded by _____.

WHEREAS, the Town of Wappinger Planning Board received an application from John Falvella (the “Applicant”) for Site Development Plan Approvals for the development of the 1.77 acre site with a 6,890 square foot building for contractor storage (Proposal or Proposed Action); and

WHEREAS, the subject properties are known as tax lots 6157-01-414840 and 396837 on the Town of Wappinger tax assessment maps and are located at 33 Middlebush Road. The subject properties are located within the R-20/40 1-Family Residence District. (the “Subject Property” or “Site”); and

WHEREAS, the Applicant has submitted Applications for Preliminary and Final Subdivision Approval dated 3/28/19; an Application for Site Plan Approval dated 3/1/19; a Full Environmental Assessment Form (EAF) dated 5/17/23; a Project Narrative dated 9/12/19; a comment response memo dated 10/16/23; and a set of plans (13 sheets) generally entitled “Proposed Contractor Storage Building, 33 Middlebush LLC,” prepared by TW Engineering, P.C., dated 2/7/23, last revised 10/14/23; and

WHEREAS, the Application for Site Plan is associated with an Application for Preliminary and Final Subdivision Approval to consolidate two (2) existing lots into one (1) lot; and

WHEREAS, the Application requested variance appeal no. 23-7798 for relief from Section 240-37 of the Zoning Code where 75 feet of minimum front yard setback (County Road) is required and the Applicant can provide 29 feet and the variance for a 46 foot front yard setback reduction was granted April 25, 2023; and

WHEREAS, the Application requested variance appeal no. 23-7798 for relief from Section 240-37 of the Zoning Code where 50 feet of rear yard setback is required and the Applicant can provide 39 feet and the variance for a 11 foot reduction in rear lot setback was granted on April 25, 2023; and

WHEREAS, the Application requested variance appeal no. 16-7598 for relief from Section 240-13 of the Zoning Code to allow for a contractors storage facility use in a residential zone, and this sue variance was granted on August 22, 201; and

WHEREAS, a duly advertised public hearing on the Site Plan was held on November 20, 2023 at which times all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Planning Board determined that the Proposed Action is an Unlisted Action with respect to the New York State Environmental Quality Review Act (SEQRA) and the Planning Board proceeded with an uncoordinated review of the Application with regard to SEQRA; and

WHEREAS, pursuant to the State Environmental Quality Review Act regulations, the Planning Board adopted a Negative Declaration on the grounds that the Proposed Action will not result in any significant adverse environmental impacts since any construction and land disturbance associated with the development will be controlled and will be mitigated through proper drainage and erosion control; and

WHEREAS, in accordance with Sections 239-l and m of the New York State General Municipal Law, the Planning Board referred the subject application to the Dutchess County Department of Planning and Development (DCDPD); and

WHEREAS, the DCDPD responded to the above-mentioned referral in its letter of February 14, 2023, which concludes that the Proposed Action is a matter of local concern, and the Planning Board should rely on their own findings; and

WHEREAS, the Application requested a Wetlands Disturbance Permit dated August 28, 2023 for site work proposed within the wetlands and buffers including the reconstruction of an existing building, parking, utilities, and stormwater management. The disturbance includes 3,190 square feet of wetlands and 31,000 square feet of wetland buffer; and

WHEREAS, the Application required a Wetlands Disturbance Permit and was granted a Wetlands Disturbance Permit dated 9/15/23; and

WHEREAS, the Planning Board is familiar with the Site and all aspects of the Project and is satisfied that the Project will comply with the Zoning Law as well as other applicable laws and regulations subject to the conditions below.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The Planning Board hereby adopts and incorporates as findings and determinations the recitations and statements set forth above as if fully set forth and resolved herein.
2. The Planning Board hereby adopts this Resolution of Site Development Plan for the development of the 1.77 acre site with a 6,890 square foot building for contractor storage as described above and as shown on the above drawing, in accordance with the provisions of Articles VII through XI of the Zoning Law subject to the following conditions:
 - a. The Planning Board Chairman shall endorse a copy of this resolution certifying its correctness. After it has been initially endorsed by the Chairman, the Owner and Applicant shall also sign a copy of this resolution acknowledging receipt of the resolution, and shall submit the signed copy to the Zoning Administrator for filing.
 - b. The Owner of the Subject Property shall submit a copy of the current deed(s) to prove its ownership of said property.
 - c. The Applicant shall submit a statement signed by the Town's Tax Collector that all taxes due on the Subject Property have been paid in full.
 - d. The Applicant shall obtain all necessary "outside" agency approvals for the Project.
 - e. The Applicant shall demonstrate compliance with the Town Engineer letter dated 11/16/23 to the satisfaction of the Town Engineer.

When all of the items set forth in Condition 2 above have been satisfied, nine (9) copies of the above referenced plans, revised as necessary, shall be submitted for endorsement by the Planning Board Chairman, certifying that the plans comply with the terms of this resolution, at which time, the Chairman shall also endorse this resolution in the space provided below, certifying that the Applicant has complied with said conditions of approval and that the issuance of a Building Permit is authorized for the improvements set forth in this Project. A PDF and a paper copy of the final signed plans shall be submitted to the Planning Board as part of the record. This submission shall include all supporting documentation verifying the sub-conditions set forth in Condition 2 have been met and this submission should include a narrative detailing what elements are included in this submission and in what way these elements address the sub-conditions set forth in Condition 2. This submission, including the narrative and all supporting documentation shall be submitted together at once.

3. In accordance with the Town's Schedule of Fees, the Applicant shall be responsible for the payment of all application review fees incurred by the Planning Board in the review of this Project which are in excess of the application review fees paid by the Applicant to-date. Such fees shall be paid within thirty (30) days of the notification to the Applicant that such fees are due. If such fees are not paid within this thirty (30) day period and an extension therefore has not been granted by the Planning Board, this Resolution shall be rendered null and void. Refunds of any remaining funds within the escrow account for the applications will only be made in accordance with the provisions of Chapter 240 Attachment 6:1, Planning and Zoning Departments Fees and Escrow Funds.
4. In accordance with Article IX of the Zoning Law, unless otherwise extended by the Planning Board for good cause shown, this Site Development Plan Approval shall expire and become void one (1) year from the date of the adoption of this Resolution if an application for a Building Permit has not been made, or three (3) years from the date of the adoption of this Resolution if construction in conformance with the approved Site Development Plan has not been completed, if the construction is not prosecuted with reasonable diligence, or if the premises has been substantially vacant or inactive for more than three (3) years.
5. In accordance with Article VII of the Zoning Law, unless otherwise extended by the Planning Board for good cause shown, the Special Use Permit Approvals shall expire and become void if the approved use of the Site shall cease for more than one (1) year for any reason, if Site Development Plan Approval expires, or if all required improvements are not maintained and all conditions and standards complied with throughout the duration of the approved use.

An application for extension of Site Development Plan Approval shall be made by the Applicant to the Planning Board prior to the expiration of the specific time period sought to be extended. The Planning Board may extend all time limits for good cause shown, if the Board deems such extension warranted.

6. If required by the Town Building Department, the Applicant shall provide an as-built survey of the subject property prior to the issuance of a Certificate of Occupancy or Certificate of Compliance, as applicable.
7. No Building Permit or Certificate of Compliance shall be issued for the Project except in accordance with the approved Site Development Plan. No further modifications to the Site shall be made without prior approval of the Planning Board. The Applicant must return for approval from the Planning Board if any changes to the endorsed plans and/or this resolution of approval are desired.

8. The continued validity of any Building Permit or Certificate of Occupancy issued in accordance with this Resolution of Site Development Plan Approval shall be subject to continued conformance with such Site Development Plan Approval.
9. The Applicant shall fund a post-approval escrow account in accordance with Section 122-16 of the Town Code.

The question of adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Bruce M. Flower	_____
Robert Ceru	_____
Paul Freno	_____
Reinaldo Anjos	_____
Nicholas Maselli	_____
Markos Peratikos	_____
Lynne Versaci	_____

The resolution is hereby duly declared adopted.

Dated: _____, 2023
Wappingers Falls, New York

Beatrice Ogunti, Secretary
Town of Wappinger Planning Board

Date

John Falvella
Applicant

Date

The following endorsement hereby confirms that the Applicant has fulfilled all of the items in Condition 2 of this resolution and that the above mentioned drawings may be endorsed by the Planning Board Chairman.

Bruce M. Flower, Chairman
Town of Wappinger Planning Board

Date