

**Topic:** Conservation Districts & Subdivisions  
**Resource Type:** Regulations  
**State:** New York  
**Jurisdiction Type:** Municipal  
**Municipality:** Town of North Castle  
**Year** (*adopted, written, etc.*): Unknown  
**Community Type – applicable to:** Suburban; Rural  
**Title:** Town of North Castle Conservation Subdivisions Ordinance  
**Document Last Updated in Database:** March 2, 2016

### ***Abstract***

Simultaneously with the approval of a subdivision plat and pursuant to § 281 of the Town Law, at the written request of the applicant, the Planning Board is authorized to modify the zoning regulations in residential districts with respect to lot area and dimensions, provided that the enumerated criteria are met.

### ***Resource***

Town of North Castle Conservation Subdivisions  
Code of the Town of North Castle NY  
Chapter 213: Zoning

§ 213-25. Conservation subdivisions.

Simultaneously with the approval of a subdivision plat and pursuant to § 281 of the Town Law, at the written request of the applicant, the Planning Board is authorized to modify the zoning regulations in residence districts with respect to lot area and dimensions, provided that:

- A. Purposes. Such modifications result in design and development which promote the most appropriate use of the land, facilitates the adequate and economical provision of streets and utilities and preserves the natural and scenic qualities of open lands.
- B. Eligibility. This authorization shall be applicable to all residentially zoned lands within the Town of North Castle and shall be utilized only when the property owner makes written application for the use of this procedure and the Planning Board determines that its utilization will benefit the Town.
- C. Permitted use. The permitted uses within a conservation subdivision shall be the same as those otherwise permitted in the zoning district in which it is located, except that

single-family attached and semidetached dwelling units shall also be permitted in subdivisions the area of which, whether all or partially within the Town of North Castle, is adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, or on smaller parcels when specifically authorized by resolution of the Town Board, following a determination by the Town Board that the proposed conservation subdivision is compatible with adjacent land uses as determined by the procedure set forth in Subsection D(1) below.

D. Development standards and controls. Except as specified herein, all development standards and controls normally applicable to other residential subdivisions shall also be applicable to conservation subdivisions:

- (1) Density. The number of building lots permitted in a conservation subdivision shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to all normally applicable requirements of this Town Zoning Ordinance, the Land Subdivision Regulations, the Westchester County Health Department Regulations and all other applicable requirements. The basis for this determination by the Planning Board shall be a conventional preliminary subdivision plat for the subject property, plus such other information as may be required by said Board.
- (2) Type and arrangement of buildings. The type of residential dwelling units permitted within a conservation subdivision shall be, at the discretion of the Planning Board and subject to the conditions set forth below, in detached, semidetached and/or attached buildings.
- (3) Minimum required lot area. In subdivisions the area of which is not adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, and when not specifically authorized by the Town Board, as determined by the procedure set forth in Subsection D(1) above, the minimum required area for building lots within a conservation subdivision shall be one acre, except that larger minimums may be required in specific instances where determined necessary or appropriate by the Planning Board or the Westchester County Health Department. In subdivisions the area of which is adequate in size to accommodate 50 building lots of the minimum lot size normally required for single-family detached dwellings in the district in which it is located, or on smaller parcels when specifically authorized by resolution of the Town Board, as determined by the procedure set forth in Subsection D(1) above, dwelling units may be grouped on one or more separate parcels of land, or located on individual lots, for which there is no minimum size requirement.
- (4) Minimum lot dimension requirements.

- (a) Where the minimum required lot area is one acre, the minimum lot frontage, width, depth and yard setback requirements for building lots within a conservation subdivision shall be the same as required in the R-1A Residence District, except that where a building lot within a conservation subdivision abuts an existing residential lot complying with conventional lot dimensional standards, any front, side or rear yard adjoining such property shall comply with the normally applicable setback requirements of the zoning district in which it is located.
  - (b) Where there is no minimum required lot area and dwelling units in a conservation subdivision abut or are directly across the street from a privately owned residential property, the minimum front, side or rear yard adjoining or facing such property shall be equal to at least twice the normally applicable setback requirement for detached one-family dwellings in the zoning district in which it is located, but not less than 100 feet, or as otherwise determined appropriate by the Planning Board for parcels specifically authorized by the Town Board but not less than twice the normally applicable setback, measured from the boundary of the conservation subdivision. In reviewing the development plan, the Planning Board shall consider the setback and proposed screening of parking and active recreation areas and may require setbacks up to twice the normally applicable setback requirement for one-family dwellings in the zoning district in which the conservation subdivision is located.
- (5) Building dimension requirements. The maximum permitted building height and building coverage and the minimum dwelling unit size shall be the same as that normally applicable to the dwellings and buildings in the zoning district in which the building is located, except that for semidetached and attached dwelling units, the minimum dwelling unit size shall be as follows:
- (a) Efficiency: 450 square feet.
  - (b) One bedroom: 700 square feet.
  - (c) Two bedroom: 900 square feet.
  - (d) Three bedroom: 1,100 square feet.
  - (e) Four-bedroom: 1,300 square feet.
- (6) Off-street parking.

- (a) Parking shall be the same as otherwise required in conventional development, but for attached or semidetached dwelling units the following standard shall prevail: one space per dwelling unit plus 1/2 space per bedroom. No less than 1/3 nor more than 2/3 of the required off-street parking spaces shall be enclosed. Of the unenclosed parking spaces, an amount equal to at least 1/3 of the total number of required spaces shall not be reserved for specific dwelling units and shall be open and available for the use of visitors and guests.
  - (b) For conservation subdivisions having no minimum required lot area, the following shall apply:
    - [1] All self-propelled maintenance equipment, including accessories, shall be stored in enclosed structures only, which structures shall conform in architectural theme to the residential buildings of the development.
    - [2] The Planning Board may require, if deemed appropriate, the provision of a suitably screened parking area solely for the storage of boats, motor homes, travel trailers and pickup coaches belonging to inhabitants of the development.
- E. Design considerations. For conservation subdivisions having no minimum required lot area, in order that such subdivisions will be properly planned in relation to the community and personal needs of people, and after referral to the Architectural Review Board for review and report, the following design elements shall be considered by the Planning Board in addition to the specific provisions of the Land Subdivision Regulations and the normal factors examined in development plan review:
- (1) Need for personal privacy.
    - (a) Visual privacy shall be preserved for residents through the proper design of rear yards and/or patio spaces. Proper screening through the use of vegetation, fencing and partially or fully enclosed patios shall be provided.
    - (b) Audio privacy shall be maintained by requiring proper standards for solid party walls that will satisfactorily limit sound transmission between adjoining dwelling units.
  - (2) Need for maintaining the scale of buildings to insure compatibility with natural and man-made surroundings. Four dwelling units shall be the normal maximum permitted per building to ensure that attached and semidetached units will be compatible in scale with the character of surrounding development and to insure

a pleasant environment for the residents of such units through maximizing views and by providing a close relationship to immediately adjacent open space at the sides of units as well as to the front and rear. The Planning Board may, where it deems necessary, limit the number of dwelling units per building to less than four and may permit up to six units in circumstances where building layout or natural terrain conditions can help assure aesthetic design, adequate private and semiprivate open space areas and significant views.

(3) Need for preserving existing neighborhood identity and community scale. In large-scale subdivisions (such as those exceeding 100 dwelling units) the Planning Board shall consider the layout of small neighborhoods or clusters within the development, each having some open space immediately surrounding it, as a goal of proper site plan so that a large, massive concentration of units, with little or no differentiation, can be avoided, and so that the character of the conservation subdivision will match the character of the neighborhood in which it is located. In this manner a sense of small neighborhood communities can be preserved, open space can be provided in direct relationship to the living units and the sense of a semirural character can be retained. This guideline, however, should not be arbitrarily applied where intrinsic land capabilities and natural terrain features could not be properly respected or where it can be proven, to the satisfaction of the Planning Board, that a particular design of a large subdivision would be more ecologically sensitive through the concentration of development on a particular section of land.

(4) Water and sewerage facilities.

(a) All dwelling units in conservation subdivisions having no minimum required lot area shall be served by public water and sewerage treatment facilities, and no certificate of occupancy shall be issued until all dwellings units are connected to approved and functioning public water and sewerage treatment facilities. Where, in the opinion of the Planning Board, connection to or establishment of public water and/or sewerage treatment facilities is not possible or not warranted, a central water supply and sewerage treatment shall be designed and constructed to serve all dwelling units in accordance with the standards and subject to the approval of the Westchester County Department of Health and the New York State Department of Environmental Conservation. Such central systems shall be designed and located in such way as to readily permit their connection and/or conversion to off-site systems at such time as they are constructed.

(b) Where, in the opinion of the Planning Board, the geology of an area is such that wells of large capacity will adversely impact existing wells on adjoining properties, individual water meters for each dwelling unit shall be installed, sufficient measures shall be taken by the applicant to prevent such adverse

impact or to indemnify the owners of such impacted wells, and/or where feasible, an off-site source of water supply shall be developed.

- (5) Antenna system. A central television antenna system, a dish antenna or cable service where available, shall be provided for each group of attached dwelling units.
- F. Conserved land areas. Conservation subdivisions shall result in the preservation of open space areas having meaningful scenic, ecological, environmental and/or recreational characteristics, with such access, shape, size and location as determined appropriate by the Planning Board to satisfy the intended purpose. The permanent preservation of such open space areas shall be legally assured to the satisfaction of the Planning Board and the Town Attorney, by the filing of appropriate covenants, deed restrictions, easements or other agreements.
- (1) Ownership of conserved land areas. The ownership of conserved land areas shall be divided equally among all owners of building lots within the conservation subdivision, except where all or an appropriate portion of the conserved land areas are deeded to a recognized conservation organization dedicated to the preservation of open space and such dedication is acceptable to the conservation organization and to the Town Planning Board, or offered for dedication to the Town of North Castle and the Town Board has voted to accept such offer. Except in those cases where the ownership of the conserved land areas is to be vested in the Town of North Castle or an approved conservation organization, the subdivider shall execute and file with the Planning Board such documents as, in the opinion of the Town Attorney, will be sufficient to create a property owners' association responsible for the continued ownership, use and maintenance of all conserved land areas in accordance with the following requirements:
    - (a) Membership in the association must be mandatory for each property owner within the subdivision and for any successive property owners.
    - (b) All restrictions on the ownership, use and maintenance of conserved land areas must be permanent.
    - (c) The association must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas, including any active recreation areas and related facilities.

- (d) Each lot owner within the subdivision shall be made responsible for paying his proportionate share of the association's costs, and the assessment levied by the association shall become a lien on the property if not paid.
- (e) The association shall have the power to adjust assessments to meet changing needs.
- (f) In the event that the maintenance, preservation and/or use of the conserved land area(s) ceases to be in compliance with any of the above requirements or any other requirements specified by the Planning Board when approving the subdivision plat, the Town shall be granted the right to take all necessary action to assure such compliance and to assess against the association and/or each individual property owner within the subdivision, all costs incurred by the Town for such purposes.
- (g) The establishment of such an association shall be required prior to the final approval of the plat.

(2) Permitted uses in conserved land area. Except where otherwise approved by the Planning Board, conserved land areas shall be preserved in their natural state and the use of such areas shall be limited to appropriate conservation, open space and recreation purposes as determined by the Planning Board. A portion of the conserved land area(s) may be designated "active recreation area" on the subdivision plat, in a location approved by the Planning Board. Such active recreation area shall not exceed 5% of the total area of the proposed subdivision. Within such area structures and facilities for active recreational purposes, including playground equipment, swimming pools, tennis courts and so forth, may be constructed and operated for the use of the property owners in the conservation subdivision and their guests. Where determined appropriate, the Planning Board may specify a phased construction schedule for such structures and facilities. Enlargement of such structures and facilities, or establishment of such structures and facilities not shown on the filed plat, shall be subject to site plan approval procedures as set forth in this Town of North Castle Zoning Ordinance.

G. Application procedure. In addition to compliance with any special standards, requirements and procedures as set forth in this section, conservation subdivisions shall also be subject to review and public hearing by the Planning Board in accordance with the same procedures as would otherwise be applicable to conventional subdivisions. The proposed development plan, as required by Town Law § 281(e) and including areas within which the structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, and streets, driveways and all other physical features as shown on said plat or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes, or

supplementations of existing zoning provisions as are not shown on said development plan, and in the case of conservation subdivisions having no minimum required lot area, floor plan of each dwelling unit design, shall likewise be subject to the same review and public hearing by the Planning Board. For conservation subdivisions having no minimum required lot area, the Planning Board shall forward one copy of the proposed development plan to the Conservation Board, the Architectural Review Board and the Town Engineer. Upon filing of the plat in the Office of the County Clerk, a copy shall also be required to be filed with the Town Clerk, who shall make the appropriate notations and references thereto on the official copy of the Town Zoning Map.