

September 7, 2022

A MEETING OF THE PLANNING BOARD of the Town of Ossining was **held on September 7, 2022 at 7:30 p.m. by Zoom video conference.** Members of the public were able to view and join the meeting via computer or mobile app as follows:

<https://us02web.zoom.us/j/81696588896>

There were present the following members of the Planning Board:

Carolyn Stevens, Chair  
Jim Bossinas, Member  
Donna Sharrett, Member  
Manny Enriquez, Member  
Jason Mencher, Member

Also Present: Kathy Zalantis, Attorney, Silverberg, Zalantis LLP  
Valerie Monastra, AICP, Nelson, Pope & Voorhis, LLC  
Daniel Ciarcia, PE, Consulting Town Engineer  
Sandy Anelli, Secretary  
Margaret Conn, Secretary

#### **Picucci Subdivision, 51 Croton Dam Road, 1 Lot Subdivision PUBLIC HEARING Continued**

Yellow Jug Corporation (“Applicant”) is seeking Preliminary Subdivision Approval to create an additional lot on a two (2)-lot subdivision and a private road to service the three (3) lots (“Project”). The Project will be located at 51 Croton Dam Road, Section, Block, and Lot 89.08-1-78.1 (“Project Site”). The Project Site is located in an R-15, One Family Residence zoning district. This Project received a rear yard variance of 2.1 feet for proposed Lot 1 on February 7, 2021.

Mr. Mark Picucci, Applicant and Mr. Ralph Mastromonaco, Engineer, were in attendance. A Final Subdivision Plat dated July 28, 2022, prepared by Richard J. Spinelli, Land Surveyor, titled “Subdivision Map Prepared for Yellow Jug Corp. and Laura E. Couzens & Terrie L. Bentley in the Town of Ossining, Westchester County, NY” was on file. Mr. Mastromonaco noted that new easements were under review and updates from a prior subdivision that may have been left off are now updated on this plan.

Mr. Ciarcia has done a preliminary review of the storm water pollution prevention plan (SWPPP) that was provided by the applicant and it is in compliance. There are some details that can be added to the plan and Mr. Ciarcia recommends a one-year storm be analyzed as well. Mr. Ciarcia asked about the sanitary manhole existing on site and if it is covered in any old easements from the prior subdivision. Mr. Mastromonaco noted that the utility easements are located in the entire private road area and these will go to the Town. Mr. Mastromonaco pointed out locations of these on the plat.

Ms. Monastra submitted and reviewed her August 31, 2022 memo with the Board. Copies were given to the applicant in advance of the meeting. Comments are as follows:

General and Procedural Comments:

1. **SEQR.** This project is categorized as an Unlisted Action under SEQR. The Planning Board will be undertaking an uncoordinated SEQR review. The Applicant provided a Short Form EAF Part I, Part II and III which was provided to the Board in July. A negative declaration will need to be issued by the Planning Board to complete the SEQR process.
2. **Zoning Board of Appeals.** This Project received a rear yard variance of 2.1 feet for proposed Lot 1 on February 7, 2021.

**Picucci Subdivision Continued:**

Outstanding Subdivision Plat Comments:

1. **Sewer and Water.** The Applicant has not provided information that the proposed subdivision will meet the requirements of Section 176-17, Sewer and Water Facilities. The Applicant noted in their June 8, 2022, letter that the plat requires approval of the Westchester County Department of Health for sewer and water compliance. **It is recommended that as a condition of approval, the Applicant must meet the requirements of Section 176-17 and obtain all required approvals from the Westchester County Department of Health.**
2. **Stormwater.** The Applicant provided information on the stormwater management for the Town Engineer to review. At the last meeting, the Planning Board requested additional information on the rain garden and wanted confirmation from the Town Engineer that the stormwater is appropriately designed. Additional information on the rain garden has not been submitted. **It is recommended that as a condition of approval, the Town Engineer reviews and approves the Stormwater Pollution Prevention Plan and that the rain garden details be reviewed as part of the Architectural Review Board application.**
3. **Additional Subdivision Provisions.** The Applicant has agreed to pay the recreation fee of \$7,500 per Section 176-20, Parks and playgrounds; natural factors; reserve strips. **It is recommended that payment of the recreation fee be a condition of approval.**
4. **Easements.** The new private road will be servicing three (3) properties. According to the Applicant, the agreement/recording information was never recorded for the easements shown on the 2009 plat. There are proposed water and sewer easements shown on the 2022 plat. At the last meeting, the Planning Board requested to obtain a copy of all easements and that all easements should be noted on the plat prior to the approval of the subdivision. The Applicant provided draft easements for the driveway, sewer, and water service for the three (3) properties. **It is recommended that as a condition of approval all easements must be reviewed and approved by the Town Attorney and recorded by the Applicant.**

Ms. Stevens opened the hearing to the audience and the Board. Ms. Sharrett expressed concerns with the proposed rain garden. Ms. Sharrett read into the record her concerns as follows:

*Developments where they can be routinely maintained and the function of the rain gardens can be monitored, Planning Board Approval on individual residential property is very problematic, in my opinion. I am concerned about sediment accumulation over time, plant maintenance and replacement, chemical exposure to plants from lawn maintenance chemicals and driveway. This is a driveway that is going to be emptying right into this rain garden. Maintenance in rain gardens is usually beyond the scope of most homeowners. Although this applicant might have the knowledge, time or energy to maintain the rain garden, most homes change ownership at some point and I think it is unlikely that every subsequent homeowner will possess the skill or desire to maintain the rain garden or even the basic understanding that maintenance is essential. I would never want to approve a rain garden that has the ability at some point to malfunction and cause erosion or downstream flooding.*

Ms. Sharrett also expressed concerns with the location of the rain garden and the possibility of it spilling downward onto Croton Dam Road. Clearly, rain gardens should not be taking on water from the driveway. This is going to be hard to maintain. Mr. Ciarcia noted that any type of stormwater practice is going to bring the same issue. Homeowners have an obligation to maintain their property.

**Picucci Subdivision Continued:**

Mr. Mastromonaco noted that the rain garden is a device that is promoted by New York State Department of Environmental Conservation (NYSDEC) for exactly the reasons Ms. Sharrett was talking about. This doesn't require a lot of maintenance. It's not a deep rain garden capable of flooding Croton Dam Road. It's only taking a small amount of area and this is exactly used for cases like this because NYSDEC's stormwater manual promotes this type of use, open air treatment of stormwater. Over the years the plants grow, there could be sediment in there and that is why there is a maintenance plan that goes along with the rain garden. Mr. Mastromonaco noted that if the Board would like, it can be within the deed that it be maintained. It would be permanent maintenance agreement over the rain garden addressing the responsibility of that homeowner to maintain that device.

After some discussion regarding maintenance of the rain garden, Mr. Ciarcia noted that the applicant is following NYSDEC guidelines and using one of the Green Infrastructure practices that the DEC heavily promotes. Ms. Stevens asked if there comments from the public. There were none. Ms. Monastra noted that the Board could move towards preparation of a draft resolution after issuing a negative declaration. Ms. Zalantis recommended a condition of the resolution that the deed provide for the obligation to maintain the rain garden and have that as a note on the plat. The Board agreed.

**Mr. Mencher made a motion, seconded by Mr. Enriquez and it was unanimously passed by the Board to close the public hearing for the Picucci Subdivision, 51 Croton Dam Road, 1-Lot Subdivision.**

**Mr. Bossinas made a motion, seconded by Mr. Enriquez and it was unanimously passed by the Board to issue a negative declaration under State Environmental Quality Review Act (SEQRA).**

**Mr. Mencher made a motion, seconded by Mr. Bossinas, Mr. Enriquez and Ms. Stevens voted in favor of directing staff to prepare a draft resolution for the Picucci Subdivision for the next meeting of the Planning Board, including conditions discussed above, Ms. Sharrett voted against preparation of a resolution.**

Mr. Picucci asked if his project could be reviewed for Architectural Review at the next meeting. After some discussion regarding completeness and ARB requirements, **Mr. Bossinas made a motion, seconded by Mr. Enriquez and it was unanimously agreed to set a public hearing for Picucci Subdivision, 51 Croton Dam Road, New Single-Family Residence Architectural Review on September 21, 2022.**

**Rose Lodge, LLC, 83 Somerstown Road, Wetlands, Fill & Grade Permits, PUBLIC HEARING**

The applicant is requesting a Wetlands Permit and Filling & Grading Permit in order to restore certain wetlands that were previously disturbed on the property. Original plans dated November 22, 2021 were prepared in response to the Order to Remedy dated October 12, 2021. The applicant requested permits in order to construct a .46 acre sandy beach within the property. The applicant has now revised the application and now proposes to restore the prior disturbance to its original condition.

The Town's Environmental Consultant, Mr. Steve Coleman, submitted a memo to the Planning Board dated September 1, 2022 outlining concerns and recommendations. The letter was given to the applicant in advance of the meeting. Mr. Taylor Palmer, Cuddy & Feder LLP, Mr. Duncan Simpson, PE, Princeton Hydro, and Mr. Andrei Lukianoff, PE of Engineering & Surveying Properties Corp. were in attendance. Mr. Palmer gave a brief overview of the project to the audience and the Board. Mr. Palmer said they are completely trying to restore the site to its original condition and noted that there were several site visits with the Town's Environmental Advisory Committee (EAC) Members and Planning Board Members. Mr. Palmer said they are in agreement and will follow Mr. Coleman's recommendations.

### **Rose Lodge Continued**

Mr. Simpson gave a brief description and overview of the work to be done in the watercourse and restorative plantings being installed. Mr. Simpson is also in agreement with recommendations from the town consultant and noted that this would go beyond pre-existing conditions in terms of native vegetation. The buffer would be wider and the fact that pre-existing conditions was largely a regularly mowed lawn. Also, three years of monitoring would identify any invasive plants or areas where the plantings were not thriving or propagating.

At this time, the hearing was open for public comment. **Mr. Bossinas made a motion, seconded by Ms. Sharrett and unanimously passed by the Board to open the public hearing for Rose Lodge, 83 Somerstown Road, Wetlands, Fill and Grade Permit (Restoration).**

Mr. John Scibilia, 70 Somerstown Road asked if there was any damage or impact done during this that needs to be mitigated from the year or so that this work was done. In response, Mr. Palmer again noted that in the Town's mitigation recommendations and what they are proposing is above and beyond pre-existing conditions which was sandy beach and a largely mowed lawn. There are photos of the existing prior conditions and prior to disturbance and from when the property was purchased. The Restoration plan is designed to mitigate what was what was done on the site and it's a substantial mitigation plan. Board members and EAC members went out to the site to ensure what was there and what is there's currently. The material that was in that location has been removed and it is also fenced with silt fencing. The existing condition has been temporarily remediated. As far as the complete mitigation plan, the applicant is agreeing to make those changes to restore the area wider than what was the existing condition. It's a collective mitigation restoration plan. Mr. Scibilia thanked Mr. Palmer and the Board.

Ms. Sharrett noted that it is going to be an improvement from what was there previously. Also, Ms. Sharrett expressed concern as to why the sand piles are not being completely removed and recommends they re-use the stones that are there to help re-stabilize the entire disturbed shoreline, not just in the area where the watercourse is coming in. Ms. Sharrett also asked if the applicant could encourage the homeowners not to use a lot of chemicals on the lawn, because that's such a down slope and that will impact the pond. Mr. Bossinas also asked the applicant what the status of the remaining sand piles on site will be and what will it be used for. Mr. Palmer noted that he would look into that with the applicant. Ms. Stevens asked if there were any additional comments from the public or the Board. There were none.

Ms. Monastra noted that the project was referred to the Town's Environmental Advisory Committee (EAC) for comment and recommendations. The applicant will also need to provide revised plans in accordance with Mr. Coleman's memo.

**A motion was made by Ms. Sharrett, seconded by Mr. Enriquez and unanimously passed by the Board to continue the Rose Lodge, LLC, 83 Somerstown Road, Wetlands, Fill & Grade Permit Public Hearing to September 21, 2022.**

### **Terra Rustica Ristorante, 550 North State Road, Site Plan Amendment**

Mr. Kory Salomone of Zarin & Steinmetz LLP, and Mr. Lou DeMasi, Architect, were in attendance. Application materials and plans titled, New Veranda for 550 N. State Road, Briarcliff Manor, NY dated July 21, 2022 were on file. Mr. Salomone gave a brief overview of the proposed amendments to the site. The applicant is proposing enclose the existing covered porch with clear tempered glass.

Ms. Monastra noted that this proposal is a site plan amendment and would require a public hearing. Mr. Enriquez raised the question about enclosing the deck and based on prior variance that was granted for adding square footage to the outdoor deck now the idea of enclosing it will require compliance with energy codes and turning it into usable square footage and interior space which changes the entire site to a fully enclosed restaurant. Ms. Stevens asked if heating will be provided. Ms. Zalantis recommended that, because there was a variance granted on this previously, the Board will refer this to the Building Inspector to review for any specific issues relating to the variance since it was originally granted based on increasing area to an outdoor space. Mr. DeMasi noted that this can also be treated as a sun porch by just adding glass panels. He said they aren't asking for any additional area or any type of variance.

**Terra Rustica continued**

Ms. Sharrett raised concern that it seems that there are a lot more than 30 seats on the outdoor area. The original approval is for 30 seats. If there's more seats, additional parking would be required and this could potentially be a violation of site plans.

The Board will need something in writing from the Building Inspector indicating whether or not the ZBA resolution would still be in effect if the covered porch is enclosed. The Board set a public hearing.

**A motion was made by Mr. Bossinas, seconded by Ms. Sharrett and unanimously passed by the Board to set a public hearing for Terra Rustica Ristorante, 550 North State Road, Site Plan Amendment September 21, 2022.**

**Miscellaneous**

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**River Knoll Update**

Ms. Monastra noted that the Public Comment Period ended on September 6, 2022. All comments received from the Public including the transcript from the Public Hearing will be incorporated into the Final Environmental Impact Statement (FEIS) which will ultimately become the Planning Board's document for additional review.

**Parth Knolls Update**

The Board discussed the affordability component of the Parth Knolls project. Permanent Certificates of Occupancy for both buildings have been issued with the condition of affordability and oversight of the Town of Ossining. Ms. Monastra will update the Board accordingly.

**Minutes**

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**A motion was made by Ms. Sharrett, seconded by Mr. Enriquez and unanimously passed by the Board to adopt the meeting minutes of Planning Board Meeting August 3, 2022.**

**A motion was made by Ms. Sharrett, seconded by Mr. Mencher and unanimously passed by the Board to adopt the meeting minutes of Planning Board Meeting August 17, 2022.**

**Adjournment**

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**A motion was made by Ms. Sharrett, seconded by Mr. Mencher and unanimously passed by the Board to adjourn the Planning Board meeting to September 21, 2022.**

Time Noted: 9:05 p.m.

Respectfully submitted,

*Sandra Anelli*

Sandra Anelli, Secretary  
Town of Ossining Planning Board

**APPROVED: October 19, 2022**