

May 17, 2023

PLANNING BOARD of the Town of Ossining was held on **May 17, 2023 at 7:30 p.m. at the John Paul Rodrigues Ossining Operations Center, 101 Route 9A, Ossining, NY and by Zoom video conference.** Members of the public were able to attend in person or view and/or join the meeting via computer or mobile app as follows:

<https://us02web.zoom.us/j/89970001030>

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:

Katherine Zalantis, Attorney, Silverberg, Zalantis LLP  
Valerie Monastra, AICP, Nelson, Pope & Voorhis, LLC  
Daniel Ciarcia, PE, Consulting Town Engineer  
Margaret Conn, Secretary

**Terra Rustica Ristorante, 550 North State Road, Site Plan Amendment & Architectural Review PUBLIC HEARING**

Mr. Abel Magana, Applicant, Mr. Kory Salomone, Attorney and Mr. Lou DeMasi, Architect, were in attendance. The applicant is proposing to enclose the existing covered porch with clear tempered glass. Ms. Stevens opened the public hearing to members of the public.

Mr. Rudy Albrecht, 552 North State Road, stated that they have concerns with the cars leaving the restaurant at night. The cars are revving the engines and beeps from cars locking and unlocking. Mr. Albrecht said the cars sit there idling for 20 minutes or more. Mr. Magana said he is not aware of that but will put an end to that situation. He will observe his employees when they are leaving at night and stop that from happening.

Ms. Stevens asked if there was anyone else on zoom or in the audience that have comments for the Public Hearing. There were none at this time. Ms. Stevens noted she has some concerns with the additional offsite parking at 557 North State Road which, at this point, it doesn't look like the vehicles that are already parked there are not moved around at all. Ms. Stevens also expressed concern with the number of tables on the outside deck which appears to be about 20 and 10 on the patio. This adds up to a lot more than 30 seats. That is a lot more than the original 36 seats discussed at the last meeting and originally allowed. These issues need to be resolved.

Mr. Magana said there is always a middle table without chairs, they don't use these for seating but to create space between the other tables and regarding the extra parking, the site at 557 has parking spaces for Terra Rustica in the front of storage containers. The extra parking can be used 7 days a week. Mr. Magana also confirmed that they will be using valet service when using this additional site for parking. There are 20 parking spaces available at the Power Up Garage, 557 North State Road site. Mr. Enriquez asked Mr. Magana how many parking spaces are there now at Terra Rustica. Mr. Magana said there are 60.

Ms. Sharrett expressed concerns that the Public Hearing was advertised about Terra Rustica but the residents that live around 557 North State Road were not notified about the added parking. Also, there is a residential area behind there and there's an existing wetland buffer area on that site. There's a Pocantico River tributary that comes through that property. Ms. Sharrett noted that the property at 557 should come in for an amended site plan, there should be a SEQRA review and the EAC should review it. There's no way they should just start parking over there without changing the usage. Power up garage closes at 5:00 or 6:00 pm and that's the end of business, not parking cars there until 11:00 pm at night. Mr. Salomone noted that this site is paved and already approved for parking. Ms. Sharrett reminded Mr. Salomone that there are residents behind there and it's not approved as a public parking lot. Mr. Salomone said it's an approved parking lot, so they are not changing anything. Mr. Magana said it is a commercial property. Ms. Sharrett said it is still not a commercial parking lot. Mr. Salomone and Mr. Magana strongly disagree. Ms. Sharrett also expressed concerns with a very bright light at Terra Rustica and recommends putting a different type of light that would not be so blinding. Also, that all lights be turned off at the close of business.

**Terra Rustica Continued**

After some discussion between Mr. Albrecht and Mr. Magana, Ms. Stevens and Mr. Mencher clarified to the audience that the Public Hearing is for consideration of the glass panels. Ms. Sharrett recommends lighting meet the requirement of less than 3000K Kelvin and face downward away from neighbors. Ms. Sharrett also noted that if the restaurant didn't add seats, they shouldn't require more parking. If the number of tables remain the same, there should be no need for additional parking. This precipitated a lengthy discussion.

Mr. Bossinas suggested that the Building Inspector make a determination on the number of parking spaces on site and if the additional offsite parking is necessary. There's a residential zone around the other GB site, this could create issues on that side of the road. Mr. Bossinas strongly recommends that if there are extra tables on the deck, those should be removed. The Planning Board was told that there are 36 chairs on the deck at the last meeting. Mr. Bossinas said there a website advertisement that shows about 80. The applicant should reduce the amount of table and seats to the amount that they are legally permitted to have. The Board agreed that the Building Inspector should visit the site and confirm to the Board that the number of seats and parking are in compliance with their existing site plan. Mr. Magana agreed to have the inspector come by to check. Mr. Magana said his restaurant occupancy, including outside and inside, is 135. Mr. Salomone noted that, based on this number, they are parking compliant as far as number of parking spaces. Again, the Board urged Mr. Magana to have only the number of tables and seats on the deck that are permitted and to remove the additional tables whether there is seating or not.

Ms. Vera Albrecht from the public asked to speak. She expressed concern with additional tables located at the side of the restaurant near the entrance and if those tables were part of their approved seating. The Board agreed the Building Inspector can verify if these tables are permitted and how many, if so. They also asked the applicant to verify and/or install down lighting 3000 Kelvin away from any residential areas adjacent to the site.

Mr. Ken Kamber, 84 Morningside Drive, referred back to the subject of occupancy and what is the originally posted seating in the restaurant right now. He said, that is what really matters, because that is what goes to the fire code and that is what the Planning Board initiated and that is what the amount of parking spaces are adhering to. You can have a table of four and have four cars, you can have a table with twenty and it could be twenty cars. The occupancy number and number of seats should match. If they are enclosing an area that is already exists, there should be adequate parking, there shouldn't be an issue.

Mr. Bossinas said there's a parking count that is based on the square footage of the restaurant and the parking count was affected by a zoning variance in the past and it came up code wise, if this area is enclosed, does it become square footage as part of the restaurant. This is beyond the point of the purview of the Planning Board, a determination should be made by the Building Inspector on how many seats and how many parking spaces and whether or not it is compliant. Mr. Kamber also noted that there isn't any available parking along North State Road at the 557 North State Road site. After some discussion, the Board agreed that the Building Inspector will have to make a determination on the number of seats, tables, and parking spaces at 550 North State Road.

Mr. Patrick Vipperman of 86 Morningside Drive said his property borders 557 North State Road. He said it is an absolute derelict property, the only upshot is that it is dark at night. If you start parking cars back there, it's not dark any more. It is a wetland buffer. If they wanted to do the necessary things to make it viable parking spaces, it definitely means planning. There has to be another solution, perhaps down the road where Suburban is.

Mr. Magana said, thank you to Mr. Vipperman. He said they are here to do business and we have to do what ever we have to do. In the end, I do not want problems for anybody I want to be one of the guys that helped people through Covid and I want to continue helping, we're here to serve the people and that is my passion. People who know me very well know that this is my passion.

At this time Ms. Stevens announced that the Board will have the Building Inspector go out to the site as discussed and put this over to June 21, 2023 and hopefully we will have the Building Inspector's report by then.

May 17, 2023

**Terra Rustica Continued**

**A motion was made by Mr. Bossinas, seconded by Mr. Mencher and it was unanimously approved to adjourn the Public Hearing for Terra Rustica Ristorante, 550 North State Road, Site Plan Amendment & Architectural Review to June 21, 2023.**

**Abel Magana, 512 North State Road, Architectural Review - Preliminary Site Plan Review**

Mr. Abel Magana, Applicant and Mr. DeMasi, Architect were in attendance. Ms. Monastra submitted and reviewed her memo of May 11, 2023 with the Board. The applicant submitted an application for Architectural Review to construct a new second-story exterior covered porch with an exterior staircase connecting to the ground level, a new exterior ADA-compliant ramp leading to an existing first-floor exterior doorway entrance/exit, a new composite deck extending across the first-floor front façade and a number of interior modifications. The property is located at 512 North State Road at the corner of Blue Lantern Road in the General Business Zoning District. Mr. Turnquist, Building Inspector, has verified that this application would require variances from the Zoning Board of Appeals.

Mr. DeMasi presented the plan to the Board. The applicant is looking to have a restaurant on the first floor and there's an existing residential space above it on the second floor. Currently, to access the upstairs unit, they have to walk through the restaurant to an interior stair. The applicant is proposing an exterior staircase, with a landing, doorway and covering over it at the side of the building that faces Blue Lantern Road. Mr. DeMasi also discussed a patio space at the front of the restaurant, to be used by the restaurant, this faces North State Road and would be built in line with the existing front door of the restaurant about 30 inches in height. Mr. Mencher asked what kind of treatment is going to be on the patio. Mr. DeMasi said a railing and plantings in the front. There is pavement there now, that is going to be pulled up and shrubs and plants will go in.

After some discussion and based on consultants' preliminary review of the application, it appears to be slightly more than architectural review. Mr. Ciarcia said the Board will need to look at the original site plan that was approved, how the parking was determined and then understand what they are doing now and how that changes. If it is compliant, then that is great. The Board agreed to verbally refer this to the Zoning Board of Appeals. There was not further comment. Mr. Magana and Mr. DeMasi thanked the Board.

**Minutes**

**A motion was made by Mr. Mencher, seconded by Mr. Enriquez and unanimously passed by the Board to adopt Planning Board Meeting Minutes of April 19, 2023.**

**Adjournment**

**A motion was made Mr. Bossinas, seconded by Mr. Mencher and unanimously passed by the Board to adjourn the Planning Board meeting to June 21, 2023.**

Time Noted: 8:30 p.m.

Respectfully submitted,

*Sandra Anelli*

Sandra Anelli, Secretary  
Town of Ossining Planning Board

APPROVED: June 21, 2023