

February 16, 2022

A MEETING OF THE PLANNING BOARD of the Town of Ossining was **held on February 16, 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/81182758541>

There were present the following members of the Planning Board:

Gareth Hougham, Chairman  
Jim Bossinas, Member  
Carolyn Stevens, Member  
Donna Sharrett, Member

Also Present:

Christie Addona, Attorney, Silverberg, Zalantis LLP  
Valerie Monastra, AICP, Nelson, Pope, Voorhis, LLC  
Daniel Ciarcia, PE, Consulting Town Engineer  
Sandy Anelli, Secretary  
Margaret Conn, Secretary

**MGM Design and Construction Group LLC, 5 Hawkes Avenue, 2-Lot Subdivision Request for Re-Approval of Expired Resolutions PUBLIC HEARING**

The application is for minor subdivision plat approval, wetlands permit approval and tree removal permit approval. Plans and copies of the 2019 Resolution of Approval materials were on file and submitted to the Board. Mr. Thomas Kerrigan, PE, of Site Design Consultants, was in attendance representing the applicant. Mr. Kerrigan gave a brief update to the Board and noted that there are no changes to the plan that what was previously approved by the Board. They are seeking to get this and all other related the approvals squared away at this time. Mr. Kerrigan noted that right now, they're almost done with the Health Department approval, which is the one of the last items and because their resolutions have expired, they need an updated approval from the Planning Board to complete this item.

At this time, Dr. Hougham asked for a motion to open the public hearing. **A motion was made by Ms. Stevens, seconded by Mr. Bossinas and unanimously passed to open the MGM Design and Construction Group, LLC, 5 Hawkes Avenue, 2- Lot Subdivision Request for Re-Approval of Expired Resolutions Public Hearing.**

Ms. Monastra noted that the Planning Board had approved the same application and submission that they provided recently to demonstrate that is the same project at this point in time. This was approved December 18, 2019. Ms. Monastra reviewed their submission and compared it to what was approved previously and did not find any substantial changes to the plans. The total square footage of the lots changed by a hundred square feet, other than that, the plans remain the same. Mr. Kerrigan said yes, at this point, the surveyor provided more accurate numbers from what was on the original survey from 15 years ago.

Dr. Hougham asked Mr. Kerrigan if there were any changes to the delineation of the wetland. Mr. Kerrigan said no, that is all the same. Mr. Ciarcia confirmed that this is pretty much what was looked at a couple of years ago, nothing has changed of any consequence, and no issues of concern. Ms. Addona noted that this just a procedural step, given that the length of time that's needed to get these subsequent approvals, in order to get the plat filed, and Unfortunately, it does generally take longer than the time that's allowed under State Statute so in in order to make sure that the resolution and the approvals remain valid the Board determined that the applicants should come back for re-approval. As far as Westchester County Comments, from what was originally reviewed, those comments would remain in place. Ms. Monastra said new resolutions can be drafted. Dr. Hougham asked if there were any comments from the Board.

Ms. Sharrett said she reviewed the original resolution from 2019 and it seems like several of the things that were on the resolution that were supposed to be put on the plan didn't get put on the plan. It talks about deer fencing and there has to be a detail of that on the plan to the satisfactory the planning board. The wetland mitigation resolution says there should be a note that the applicants will remove all invasive plants and garbage trash, this should be on the wetland mitigation plan as well.

**MGM Subdivision continued**

Ms. Sharrett noted that on the page seven, it says that there should be a note stating that there shall be no direct driveway access to lots one and three from Hawkes Avenue. This needs clarification. Dr. Hougham said that could be a typo or leftover from some earlier thought. Mr. Kerrigan said, it may have to do with there was an existing gravel driveway from the property to the south that is being removed. Ms. Stevens said, originally it was three lots then it changed to allowing only one new lot. Ms. Monastra noted that the two driveways shown are on the original plan. Mr. Ciarcia looked at the old plan and said the driveway comment came from the prior three-lot subdivision plan which had a little cul-de-sac and lots one and three fronted on Hawkes Avenue, so the driveway note was relevant to the three-lot configuration. Dr. Hougham said that can be corrected in the new resolutions. Mr. Kerrigan agreed.

Ms. Sharrett asked if the plan has requirements for payment to the Town's Tree Bank Fund. Mr. Kerrigan said the lot is an open area, there's not a lot of trees to be removed. Ms. Sharrett pointed out another issue that was in the resolution is that the conifers have to be alternating. There are two rows of conifers and one is White Spruce and one is Green Giants. Ms. Sharrett recommends mixing them up and maybe including something like Holly and or Red Cedar to make it look a little bit more natural. The main concern is that the existing house that is closest to the road has four Red Horse Chestnut trees, just not variety and these are non-native. They're really beautiful trees but small ornamental trees and then on the other driveway, the plan shows Sugar Maples, which are grand trees. This will look strange having one majestic tree driveway and then one with highly ornamental trees. Ms. Sharrett said they could have the highly ornamental trees close to both houses and then trees that would be most typical for this kind of a road out along the road and Sugar Maples are not very good street trees. It is recommended to put something more than just Sugar Maples and not to put them by the road. Ms. Sharrett suggested some other species be used that would be salt tolerant and less problematic than Sugar Maples which are not actually doing well in this area anymore because of climate change. Ms. Sharrett asked if language regarding outdoor lighting could be included in their resolution; lights should be downward facing and low number Kelvin. Mr. Kerrigan said yes, he will speak to the landscape architect about these items.

Ms. Monastra requested that the applicant submit a revised landscape plan reflecting this. Dr. Hougham asked if there was anyone in attendance from the public who would like to speak on this matter.

Mr. Daniel Kang, 3 Hawkes Avenue, said he'd like to just thank everyone for such detail and attention the Board has given to this subdivision development. In February of 2005, Mr. Kang was working outside and had seen people doing surveys and asked what they were doing. They said, we're planning to put three houses on 5 Hawkes. That was the very first time Mr. Kang heard about this development and can't believe it's taking this long to come to this point. All this time, as neighbors, they were wondering when this was going to be happening, for the last few years it's been delayed.

Mr. Kang said they actually welcome the subdivision and the new house going up, because the current house, if you ever drove through, is in really, really bad condition. Mr. Kang asked if the applicant or the Board would be able to tell him some sort of a timeline as to when this is going to happen.

In response to Mr. Kang, Mr. Kerrigan said, now that they're close to being done with the Health Department, they still have to get the DOT permit which they don't have yet, and it's hard to say exactly when they'll be able to start construction. The applicant wants to start but it's really going to depend on when they can get the final sign off on this. It's hard to know when exactly because it's putting in the driveway entrances and then connecting the water and the sewer line which are all in the DOT right-of-way. Mr. Kerrigan said hopefully the summer, however, he doesn't know how accurate that is, but that's what they're hoping for.

Mr. Kang said he's been telling his family something beautiful is going to go up, and I think it's going to be good for this area. However, because of all the meetings for the last few years, we were thinking this is going to happen very soon, so we never addressed this one thing. Mr. Kang asked the Board to have the applicant look at the shed at number 5 Hawkes, for 10 years it's been completely dilapidated. It's in complete ruins, it's just a frame of a structure. They have had coyotes living in there. Mr. Kang has children walking back and forth near this dangerous structure.

### **MGM Continued**

Mr. Kang asked if it is possible sometime in spring that they can take that shed down because it's such an eyesore and also it's really a hazard for little kids. Also the area is sort of a holding place for a lot of siding and construction debris. Because Mr. Kang was thinking that it would be renovated soon, he was trying to be patient with the construction debris. Mr. Kang said, if anyone drives by the property at number 5 you will know exactly what he's talking about.

Mr. Kang thanked the Board and said he thinks something nice is going to happen. One of the reasons he and his family decided to commit to living in Ossining was the diversity hopes of being able to contribute in some ways, as both he and Jen are educators. Mr. Kang said he hopes that everything is approved, but if there's a further delay, if it's possible, to put those two sheds down and take the garbage out of there.

Dr. Hougham told Mr. Kang he should call the building department and tell them that there are hazardous conditions and hopefully the Building Inspector will be able to come by and ask the owners to make the sheds inaccessible to coyotes, or make them safe in any way that they need to be. Mr. Kerrigan said he will make the owner aware of this issue. Also, Dr. Hougham let Mr. Kang know that MGM will come back with plans for their house, for architectural review board approval, so that will be another cycle. Again, that'll depend on how quickly they can do that.

Mr. Kang said he will go to the building department, or call Mr. Hamilton to take a look at the debris and shed situation. He said he is sure we all agree that this is not a safe thing and that it should come down. After some discussion on demolition permits and cleaning up the site, Dr. Hougham asked if there was anyone else in the audience for the Public Hearing. There were no other residents that spoke.

Mr. Kerrigan asked, aside from the issue of the shed and the debris, there are a few items left that need to be addressed. Could the resolution be amended as discussed that so at the next meeting everything has been submitted and looks good could that be ready to go?

Ms. Monastra said she can have a draft resolution ready for the board. Dr. Hougham noted the applicant should make sure that all of the notes are on everything that was said be included on the landscape plan, mitigation plan and getting everything else, so that that doesn't hold anything up.

Dr. Hougham asked for a motion to leave open and adjourn the Public Hearing to the next meeting of the Planning Board. **A motion was made by Ms. Stevens, seconded by Ms. Sharrett and it was unanimously passed to adjourn the MGM Public Hearing, 5 Hawkes Avenue, Re-Approval of expired Approvals, to the next meeting of the Planning Board.**

### **Mark Picucci, Yellow Jug Corp., 51 Croton Dam Road, 2-Lot Subdivision**

Mr. Mark Picucci, Applicant and Mr. Ralph Mastromonaco, PE, were in attendance. Mr. Mastromonaco representing the applicant, gave a brief update to the Board. They are trying to subdivide the property at 51 Croton Dam Road. The property is about 2 1/2 acres in size in the R15 Zoning District. There are two houses and a detached garage existing on site. The R15 Zone requires 15,000 square feet per lot and they are proposing lots of much greater size. The project was in front of the Planning Board at the end of 2019. One of the changes to the plan since then is taking the driveway area and making that into a private road thereby creating frontage for three lots off of that street. They applied for an area variance from the Town Zoning Board February 7, 2022 for the existing house which didn't meet the rear yard setback. It was off by a couple of feet and the zoning board granted that variance.

In the plans, there is a copy of a preliminary plat that represents both owners of the property and they are looking forward to trying to come to a conclusion. Mr. Mastromonaco said this has been in front of the Planning Board couple years now back and forth, and certainly if the Board has looked at the plan, it's essentially a simple subdivision. They're just adding lots of greater than what the minimum zoning requirements are.

**Picucci Subdivision continued**

Ms. Monastra submitted and reviewed a memo dated February 15, 2022. In terms of SEQRA, this is considered an unlisted action so the applicant provided a short form. It's an uncoordinated SEQRA review. Ms. Monastra raised the issue dealing with the 50 foot frontage requirements from Section 225.1 of the Town's Zoning chapter. One concern refers to having frontage on a street or highway which is considerably improved to Town, County, or State Road standards, or unless a performance guarantee has been posted for such improvement. The subdivision regulations have certain requirements in terms of the 50 foot right away and 30 feet of pavement and then they also note some other items dealing with whether it's a dead end street and fire access requirements. These need to be vetted by the Building Inspector in determining which, if any of those standards or requirements apply to this particular project because it's so unique in nature, in terms of this private road.

Ms. Monastra also noted that there are a couple other items relating to the subdivision dealing with sewer and water, trees and tree removal, this will need to be worked into the application. Also, easement agreements that will need to be provided to the Town Attorney for review and the issue of the existing garage. The plat should clearly state that all lots will have access, from the driveway and that the existing garage will not interfere with access to proposed lot one. This will need to go back to John Hamilton for his review and opinion. Dr. Hougham asked the applicant to provide a landscaping plan because the Board wants to make sure that houses that are next to each other have proper screening.

Mr. Mastromonaco said the owners have been installing some screening already and they will update the plan. He can show a screening plan for the subdivision. Also, Mr. Mastromonaco said the proposed House is about 22 feet higher than Croton Dam road. There's dense woods between Croton Dam Road and the proposed house is about 90 feet away from Croton Dam Road, in terms of screening from Croton Dam Road, this property is fairly remote we're not going to see anything here. They plan to provide substantial screening and showing the existing screening between. This property and the property directly to the south, which we call the Seiden property and it's going to show screening between what we call a lot one to the existing house and proposed. Mr. Mastromonaco said they will submit a screening plan for the next meeting.

Ms. Addona reminded Mr. Mastromonaco that one of the things related to the removal of trees and proposed trees is whether it complies with the requirements of the code and whether there would have to be a payment into the tree bank fund. This would be done at the subdivision level. Mr. Mastromonaco said, he doesn't believe they're cutting down any trees. There may be one tree. Currently, it's an open field where they're putting the house. Ms. Addona noted that this information would have to be put on the plan.

Mr. Ciarcia said, as far as the technical comments, we did look at that last time so some comments about the storm water and the sewer issues have been resolved. The only other matter that just we had looked at and had spoken to John Hamilton about is this issue of frontage because there is sort of an odd provision, not so much in the subdivision regulations and the road standards as it is with respect to frontage and there is a provision in there, depending on how you read it, that looks like everything's covered by virtue of the 50 feet width but John Hamilton needs to weigh in on that as far as his interpretation, because with this application, we are reconfiguring the frontage of a lot in the rear.

Ms. Addona said it is her understanding that the right of way is the required width, it's just the proposed paving is not as wide as would be required, if it's determined by the building inspector that that's necessary based upon the regulations. Mr. Mastromonaco said he thinks the code section they saw was really made for I guess public streets in the town. There was a requirement for a 30 foot wide pavement and I believe that the ultimate width of that pavement would be determined by your board, certainly Mr. Hamilton can weigh in on that, but I believe this under the subdivision regulations your board has generally the authority to permit the existing driveway as is or to request something wider.

Mr. Ciarcia said that his takeaway was that the subdivision regulations are really speaking to improving roads that will be part of the town road network, as opposed to a common drive. It was in the section of the Code under Zoning, 200-25.1. It says, if the main portion of the lot derives is frontage and access by means of a strip of land connecting the street and the main portion of the lot that strip of land shall also be at least 50 feet and with. Mr. Mastromonaco said the 50 foot was not arbitrarily chosen, he believes that 50 foot came from the original definition that was just quoted on the earlier subdivision.

**Picucci Subdivision continued**

Ms. Monastra said after John Hamilton weighs in on the issue then becomes how wide the driveway is for safety because part of the driveway goes down to only 13 feet so we're raising the issue of emergency access. That can be discussed at a future meeting, the first thing step is to get John's opinion on this matter. Ms. Addona said when the zoning board heard this application, emergency access was something that they expressly raised as being something that they were concerned about and it was decided that would be conveyed to the Planning Board as well, with the full understanding that this board look at that too.

Mr. Mastromonaco said there was another garage at the back of the property some years ago that burnt down and the fire trucks went right up there and including concrete trucks when the other house was being built, so he believes there was some provision in the fire codes that it'd be at least 13 feet, or 13 and a half feet wide.

Ms. Sharrett asked if the applicant is planting before the Board looks at the plans and if so where they're going. Mr. Mastromonaco said there's a lot of plants already there and they tried to show it on the plan as green. Mr. Mastromonaco said if the Board wants to take a site walk after the ice and snow melts that can be arranged. Dr. Hougham asked them to please show any trees and plants on the plan. Dr. Hougham thanked the applicants.

**Minutes**

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A motion was made by Ms. Stevens, seconded by Ms. Sharrett and unanimously passed by the Board to adopt the minutes of Planning Board Meeting January 19, 2022.

**Executive Session**

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At 8:30 p.m., Dr. Hougham asked the Board for a motion to go into executive session. A motion was made by Ms. Stevens, seconded by Ms. Sharrett and unanimously passed by the Board to go into executive session to discuss procedural matters.

The meeting was re-opened at 9:30 p.m. by a motion made by Ms. Stevens, seconded by Ms. Sharrett and unanimously passed by the Board.

**Adjournment**

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A motion was made by Ms. Stevens, seconded by Ms. Sharrett and unanimously passed by the Board to adjourn the Planning Board meeting to March 2, 2022.

Time Ended 9:35 pm.

Respectfully submitted,

*Sandra Anelli*

Sandra Anelli, Secretary  
Town of Ossining Planning Board

**APPROVED: March 16, 2022**