

September 18, 2024

A MEETING OF THE PLANNING BOARD of the Town of Ossining was held on September 18, 2024 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/84798864599>

There were present the following members of the Planning Board:

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

North State Development Group, 549 North State Road, Site Plan Review Change of Use to existing interior retail space PUBLIC HEARING

ARQ Architecture P.C. ("Applicant") is seeking Site Plan approval for a new restaurant at 549 North State Road. The applicant proposes to adaptively reuse the existing building. The Project will be located at 549 North State Road, Section, Block, and Lot 90.15-1-44 ("Project Site"). The Project Site is located in the GB, General Business District. Mr. Jorge B. Hernandez, Architect, was in attendance with Restaurant Owners Mr. Fernando Alvarado and Mr. Dario Alvarado.

Mr. Hernandez gave a brief overview of the plan to the Board. He said they are requesting a 15% reduction for the amount of parking spaces provided. The back door is to be used for staff and an area near this door they are proposing an out-door walk-in freezer box. There's a four-foot retaining wall with fence on top. They are going to plant shrubs on neighbor's side of the fence for extra screening. They have addressed interior accessibility issues and for exterior lighting and signage, they are utilizing existing.

The Board raised some questions and concerns prior to opening the public hearing. Mr. Mencher asked Mr. Hernandez if he has talked with the property owner on the issue of updating the planting plan. The entire site appears to be out of compliance. Mr. Bossinas asked if the applicant could move the freezer box to the interior of the restaurant, or if there is a location against the back of the building where it can be attached and accessed from the inside. Board Members agreed. Mr. Hernandez said they hadn't explored that setup and it appears that the other food establishments in this center have this arrangement. He said this was the best location for it. They met with the neighbor yesterday, they provided some pictures showing the two property lines and how they relate to the fenced area, the wall and proposed screening. Ms. Sharrett noted that there are other residential properties nearby that should be considered with regard to noise. Mr. Hernandez said they were considering all of the properties which lead them to choose this location for the freezer because of the height of the wall and the fence plus garbage enclosure. Mr. Hernandez said the freezer is sort of tucked into the corner. Mr. Mencher asked what level of noise this equipment generates in decibels. Also, if the applicant could provide exactly what type of unit this is and measure decibels of distance to surrounding properties. Mr. Hernandez said between 60 and 70 decibels. Ms. Stevens said it's not just the noise of the compressor and the freezer, it's the sounds from the restaurant itself that will pour out every time you open and close that back door. It's concerning, especially at 10:00 pm or 11:00 pm closing and cleanup times. Ms. Stevens also suggested they try to build the freezer box attached to the building so that access to it would be completely enclosed.

In response to the Board, Mr. Alvarado said they want to put this outside because the building does not have a basement area and they need space inside. He also said there is a different type of cooler inside for immediate use to the kitchen area. Ms. Sharrett asked Mr. Alvarado what the "VIP Lounge" designation is. Mr. Dario said it is mostly for a Birthday Party, a Mother's Day Celebration or just an area if someone wants privacy or sectioned off from the main restaurant.

549 North State Road PH Continued

The Board agreed that an updated landscape plan for the whole site is required. Also, the applicant should look at relocating the freezer box. With respect to the plantings on the other side of the fence, Ms. Stevens recommended they install a soaker hose, so they won't have to go onto the neighbor's property especially when the trees get very large. An agreement with the neighbor should also be obtained for future care and maintenance of these plants. After some discussion with regard to revitalizing the existing planting plan, Ms. Sharrett recommended a new non-invasive species that would not grow beyond the approved site plan height. This will eliminate having to cut down trees later on.

The Board opened the public hearing to the audience.

A motion was made by Mr. Mencher, seconded by Mr. Bossinas and unanimously passed by the Board to open the Public Hearing for North State Development Group, 549 North State Road, Site Plan Review Change of Use to existing interior retail space

The Board acknowledged receipt of two resident comment letters, a letter from Tim Kopec, 545 North State Road dated September 5, 2024 and letter from Michael V. Costello, 10 Ryder Avenue, Briarcliff Manor, NY. These letters were also given to the applicant for review.

Mr. Costello's letter and Mr. Kopec's letter are as follows:

September 18, 2024

Ms. Carolyn Stevens, Chairperson

Planning Board & Board of Architectural Review

Town of Ossining

Re: 549 North State Road

Due to a conflict, I am unable to attend this evening's Planning Board Meeting. I request the following be entered into the record.

The applicant is seeking a reduction in the number of parking spaces permitted for the new proposed use as a restaurant. I understand that this is within the purview of the Planning Board under §200-29(A)(7), Combined Spaces, "where it can be conclusively demonstrated that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses are not in operation".

The only evidence presented is by the applicant's chart on sheet T-002 along with a statement by applicant's architect "the peak hours of the restaurant operation (Breakfast and Dinner) and it's highest parking demand corresponds with closing hours, with some or most of the other stores in the plaza". While that may be true at some times of the year, it may not be at other time as the restaurant business is very seasonal. I would urge the Planning Board to refer this matter to the Zoning Board for their evaluation where the applicant can provide evidence to "conclusively demonstrate" the statements made.

A bit of history. When original construction was underway to build the shopping center, in an attempt to gain additional parking spaces, the applicant was found to be in violation of the planning board's approved plans. Stop work orders were issued by the New York State Supreme Court, White Plains, and by the Town of Ossining Building Department at that time. Applicant was given the choice of re-engineering the retaining wall in the left rear corner of the property and resubmitting plans, or building to the approved plans. Applicant chose to build to the approved plans. He then violated the approved plans a second time by failure to build the retaining walls to the approved height. This can be seen to this day where additional concrete was poured to bring the height of the wall to meet approved plans.

Thank you, Michael V. Costello

549 North State Road PH Continued

*Dear Town of Ossining Planning Board Members,
I am the neighbor of 549 North State Road, at 545 North State Road.*

While reviewing the Tenant Fit out /New Food Establishment Restaurant Document on the Town of Ossining Website, I have some questions/concerns about the project specifically about what appears to be a new Walk-In Cooler building stated as 8' x 10', outside the existing building that will be the restaurant. In other words, a totally separate additional building, located directly next to a cement retaining wall both next to the trash dumpster and my property at 545 North State Road.

My concerns are the following:

-Has this additional building been approved by the Planning Board, or is it merely being proposed?

-Would the Board of Health approve a walk in for food, located immediately next to the trash dumpster?

-Would the dining public be comfortable with a walk in cooler next to a trash dumpster?

-A July letter from ARQ stated the walk in would be 8'x8'. This current document is showing a plan for 8'x10', neither with a stated height dimension

-on the Architectural document prepared by ARQ Architecture PC of Ossining NY, it shows a Walk-In cooler by the dimensions of 8'X10', however it does not state the height of the walk in. That would be an important dimension to understand before any other decisions should be made. Additionally, to the height of the walk in, where would the compressors go to cool the walk in? Would they be located on top of the structure? If so, how much taller would the structure be in relation to ground/Asphalt level? Also, if on top, what other sound mitigating measure would be taken by the landlord to dampen or reduce that 24 hour a day noise? Plants or trees or bushes in my opinion, would not suffice.

-if a walk in Building next to the dumpster would possibly be approved, I would request that the door to open the walk in be placed on the North-East wall of the building and definitely not the East-South wall of the building. I have worked in the restaurant industry for more than 30 year and am very familiar with the significant thud noise of a walk-in cooler door being open and shut, 50 to 100 times a day. It is not a modest or insignificant noise. Additionally, this usually occurs well before the restaurants opens and closes to the public. Please, this must be taken into consideration. The NE exposure merely opens to the parking lot and would not be as much a nuisance as to the SE.

-The document also shows 10 Mountain Laurels at 5' each being planted on soil that sits approximately 12" below the top of a descending concrete wall. The document mentions the wall is on average 4' tall but again it descends so some of the wall is less than 4' tall. Therefore, is a 5' tall Mountain Lauren Shrub, sufficient to hide any new construction? Would it be in fact 10 shrubs?

Please consider my points above before making any further decisions on this project.

Respectfully,

Tim Kopec

Mr. Kopec of 545 North State Road was in attendance and made the following comments to the Board:

I recognize that you've addressed a lot of things that I'm about to say, but I still I wrote them down so I'd like to get them all out and even if I'm being redundant. Basically, I don't want a restaurant next to me. If the municipality is going to grant some sort of a waiver or use variance for parking in this location, despite the code being designed to limit the intensity of such a use when it abuts the residential area, then a full and robust screening plan is a necessity. Further, the town should require a maintenance bond to compel the maintenance and preservation of the landscaping in perpetuity. Far too often landscaping in a space like this is not maintained. It's not irrigated and it ends up getting kind of very beat up and can die off. The initial installation would just be the beginning. It needs to be maintained, replaced as needed indefinitely.

549 North State Road PH Continued

Mr. Kopec:

The hours should be limited for operation; not before certain hours, not after certain hours. I spent 30 years in the restaurant business in New York City. I'm very familiar with the number of times people go into a walk-in box. Someone said 40 or 50 in a day, try like 150 times a day, and it doesn't start at the hour of operation and doesn't end at closing. Delivery trucks come early. Food preparation starts possibly an hour and a half before opening hours. Someone has to clean up. We just don't turn off the lights when the last customer leaves, it goes far beyond just the hours of operation. There should be no outdoor dining. My patio is probably 45 feet away from the walk-in box, so outdoor dining would certainly be a nuisance to me. There should be no loud or outdoor music. There should be no exterior lights, no flashing lights, no neon lights.

Mr. Kopec asked if the restaurant intend to offer take out or carry out? Will there be limits on when Uber eats, Grub Hub, Door Dash can pick up? The drivers should not be allowed to congregate loiter or idle. Deliveries; time should be limited to prevent early morning deliveries and late by deliveries by truck. Delivery trucks should not be allowed to idle. If the municipality is going to approve this use for a restaurant you must show that you have mitigated the impacts I'm describing. I believe that's a signal.

I hope that all of these things can be considered and it sounds like the Board is addressing a lot of them already, but it's going to severely impact me and I already have Terra Rustica across the street. I hear Happy birthday songs 15 times a night. This place is going to be a third of the distance that Terra Rustica is, so it's huge. Thank you so much.

At this time, Ms. Stevens asked if there were any other public comments or questions. Mr. Alvarado, Restaurant Applicant, said they are not putting the freezer outside to squeeze in extra tables. The area is to be used for kitchen space and workers, not more tables. Ms. Sharrett along with Mr. Mencher pointed out that if there were less tables, the applicant would not need to seek a parking waiver for extra spaces. Ms. Monastra recommends the property owner address garbage pickup and site plan issues for the overall site plan. The Board agreed that they need to supply a landscape plan, a plan for maintaining plants on the residential side of the fence, a freezer plan showing it inside the building or attached to the building with interior access, confirm trash pickup time, and to address any noise issues related to compressors, fans, and after hours clean up. Mr. Hernandez said he will get something in writing from the owner and update the plan accordingly. The public hearing was adjourned to October 16, 2024. Mr. Hernandez and Mr. Alvarado thanked the Board.

Crotonville Owner LLC, 1 Old Albany Post Road, Petition for Zoning Text Amendment and Site Plan Review PUBLIC HEARING CONTINUED

Mr. Clay McPhail, Applicant/Owner, Mr. Brad Schwartz of Zarin & Steinmetz and Mr. John Canning, Kimley-Horn Engineering and Landscape Architecture of New York, PC, were in attendance. Crotonville Owner LLC ("Applicant") is seeking an amendment to the Town's Zoning chapter of the Town Code to modify the BE, Business Education, District regulations to facilitate the planned repurposing of the former General Electric ("GE") management-training facility, located at 1 Old Albany Post Rd ("Project Site") by expanding the permitted uses of the site. The applicant is also seeking Site Plan approval for the planned reuse of each of the 12 existing buildings at the Project Site. There are no new buildings, or expansion of existing buildings, planned or proposed at this time. The applicant proposes to adaptively reuse the existing buildings. Updated plans and reports submitted September 3, 2024 were on file and available on the Town's Website.

Mr. Schwartz discussed updated materials that address concerns discussed at the Planning Board's prior meetings. These clarify accessory uses, including a greenhouse, clarification on landscaping, zoning text amendment, traffic and parking.

Crotonville Owner LLC PH Continued

Mr. Canning gave a brief overview of the updated traffic study and provided back up to show how they got to 68% and 70, 78% in their report. In response to last month's comments, Mr. Canning said the Board asked to see the worst-case scenario special event analysis, which was in Section 8 of the report and Table 15. Mr. Canning said they would like this to be compared directly to the no build conditions. The management plan has, in addition to valet and a couple of other measures, a look back period. Where they can come back and look at this issue after the fact, to make sure it's working the way they intend. They have identified 10 areas on the site that they could land bank parking. If the applicant comes back a year from now and determine more parking is needed, they can almost double the amount of parking that's there now. The applicant would go through the Site Plan Review process with the Board to determine how much is appropriate. The land bank areas are now designated.

Ms. Monastra clarified that this is to demonstrate that there is capabilities on site, not necessarily giving them approvals to actually build these options. That would be something in the future that this Board would discuss in more depth. Mr. Canning said they're confident that parking is an issue that their management can handle at the facilities and hopes it gives the Board some comfort to be able to come back and make sure that they're living up to this management plan.

At this time, Ms. Stevens asked if there were any questions or concerns from the Public or Board. Ms. Sharrett expressed concerns with respect to the current buffer area from the reservoir to these buildings. It appears to be approximately 40 feet which was probably because years ago when General Electric received approvals, the 100 ft wetland buffer or 150 ft overlay was not in place. There should be some action that protects this, especially on the parts of their property that borders the reservoir. There are some things they can do, like **not** have a mowed lawn between the walking path and the and the fence, somehow build up and improve what's there. If they're mowing and blowing and putting chemicals down 40 feet from the reservoir, it's very concerning.

Ms. Monastra said their EIS form part 3 and SEQR draft determination notes that they won't be putting any chemicals down. Ms. Addona asked Ms. Sharrett if she was looking to add some language like, no activity in terms of maintenance in the buffer area, no mowing, no leaf blowing. Ms. Sharrett said yes. Ms. Stevens asked a second time, if there was anyone from the Public or on Zoom that would like to comment. There were none from the Public.

A motion was made by Mr. Mencher, seconded by Mr. Enriquez and unanimously passed to close the public hearing and authorize preparation of a draft resolution for Crotonville Owner LLC, 1 Old Albany Post Road Site Plan Review

Ms. Monastra suggested the resolution refer back to the new overlay district to specifically make sure that it's known to the applicant that if additional work were to take place on site, it requires additional buffering as discussed. The Board agreed.

Mr. Schwartz thanked the Board. The applicant will return to the Town Board to move forward with their Zoning Text Amendment Application.

Miscellaneous

Ms. Sharrett shared information regarding a lighting ordinance recently adopted by Town of Cortlandt. Ms. Addona reported that the Town has been working on its own potential text amendments as they relate to the comprehensive plan adopted in 2022. There are lighting provisions that are going to be included in that. The Town Board will start having board sessions and part of that process and it will come to the Planning Board for review and consideration and it does include lighting. During that time, this Board can take a look at what Cortlandt did and see if there's anything that needs to be modified in any respect or in order to make it more protective. Ms. Monastra reported that it will be part of the zoning code a section specifically related to lighting. Ms. Sharrett said she thinks this will make it easier for the applicants because some of the single-family ARB applicants coming in are unaware of the issues that this addresses, particularly with illustrations, which the Town might want to include.

September 18, 2024

Minutes

August 21, 2024 Minutes were held over to October 16, 2024 for review.

Adjournment

A motion was made Mr. Mencher, seconded by Mr. Bossinas and unanimously passed by the Board to adjourn the Planning Board meeting to October 16, 2024.

Respectfully submitted,

Sandra Anelli

Sandra Anelli, Secretary
Town of Ossining Planning Board

APPROVED: October 16, 2024