

Meeting of the Planning Board of the Town of Lewisboro held at the Justice Court at 79 Bouton Road, South Salem, New York on Tuesday, July 20, 2021 at 7:30 p.m. The audio recording of this meeting is Lewisboro Planning Board 07-20-21.MP3 Lewisboro TV YouTube channel <https://www.youtube.com/channel/UCNUNE5gXs5rnHcyR4l6dikA>

Present: Janet Andersen, Chair
Jerome Kerner
Charlene Indelicato
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant
Ciorsdan Conran, Planning Board Administrator

Absent: Greg La Sorsa
Maureen Maguire
John Wolff, Conservation Advisory Council (CAC)

Ms. Andersen called the meeting to order at 7:32 p.m. She welcomed everyone to the first in-person meeting since February 2020, noted the exits, explained public safety measures including the mask requirement. She stated that the meeting was being livestreamed to YouTube so it can be observed by members of the public.

I. DECISION

Cal #03-21PB

(2:03 – 10:41)

Cameron's Deli Expansion, 890 Route 35, Cross River, NY 10518, Sheet 20, Block 10801, Lot 30 (Central Ave., White Plains, LLC., owner of record) - Application for a change of use.

Marco Mandra, architect, was present.

Mr. Mandra stated the proposal for six new outdoor tables and planters received ACARC approval. He noted existing signage is to remain the same. He discussed plans for the resized ADA spaces.

Mr. Johannessen reviewed the highlights of the draft resolution for:

- a change of use (expansion of the deli business into the abutting vacant store);
- the addition of outdoor dining area;
- three ADA-compliant parking spaces;
- restriping of all parking spaces;
- health dept approval is needed for the change of use; and
- if the unfinished second floor were proposed to be finished it would need Planning Board approval.

He noted there is a typo in the resolution on page 2, paragraph 2 the word referral should be singular.

On a motion made by Mr. Kerner, seconded by Ms. Indelicato, the resolution dated July 20, 2021, for a change of use and waiver of site development plan procedures at Cameron's Deli, 890 Route 35, Cross River was adopted. A copy of the Resolution is attached and is part of these minutes.

II. SKETCH PLAN REVIEWS

Cal #01-15PB, Cal# 25-15WP, Cal #06-15SW

(10:42 - 26:53)

Copia Garden Center, 475 Smith Ridge Road, South Salem, Sheet 53, Block 9834, Lots 35, 36 & 48 (Organic Choice, Inc., owner of record) - Application for Sketch Plan Review/Site Development Plan for unfinished improvements to the existing Copia Garden Center and expansion of the existing use onto adjacent tax parcel.

David Coffin, architect; and Michael Sirignano, Esq. were present on behalf of the owners.

Mr. Sirignano stated that the applicants' previous Planning Board approvals from 2015, 2016 & 2017 had lapsed, and the current application is to address unfinished improvements.

Mr. Coffin reviewed the annotated plan to clarify which improvements had been made and which were outstanding. Ms. Andersen stated the annotated plan was helpful and she would like to see responses to the Building Inspector's memo. Mr. Sirignano agreed.

Mr. Kerner stated that while Copia is an asset to the community, it is an aggressive use of the site, it is difficult to maneuver, it should be designed for peak use and there is a storage rack where there should be parking.

Ms. Indelicato noted the traffic circulation is inadequate and questioned why the neighboring Lot 33 isn't being included on this application. Mr. Johannessen concurred that the Board cannot approve a site plan when there is an illegal use of space, the non-conformity must be removed; applicant is storing plant material on that lot when a personal garden was approved.

Mr. Sirignano stated that the applicants are pursuing an agricultural district designation. He will discuss this further with the Building Inspector and Planning Board counsel.

Mr. Johannessen requested a site inspection. Mr. Sirignano agreed. Applicant is to schedule that site visit.

Mr. Johannessen noted conditions of the original approval and requested copies of the:

- license agreement with the Town for planting in the Town right of way on East Street; and
- lease agreement between Copia and Vista Market, for use of their property for a private garden.

He noted that Vista Market is also an active application before the Planning Board and these details must be addressed during the planning process.

The Board agreed with Mr. Johannessen's comments, and the applicant plans to return in September.

Cal #04-19PB, Cal #17-19WP, Cal #06-19SW

(26:54 - 39:06)

Pound Ridge Stone, 2 West Road, South Salem, NY 10590, Sheet 49B, Block 9831, Lot 1 (Two West Road LLC, owner of record) – Application for site upgrades including additional parking and storage areas.

David Moorman, owner; Joseph Riina, P.E., Site Design Consultants; and Michael Sirignano, Esq. were present.

Ms. Andersen stated the Planning Board declared itself lead agency on this application in 2019.

Mr. Sirignano stated the application received a number of variances at the ZBA's May 26, 2021 meeting and he requested the public hearing be scheduled.

Mr. Riina reviewed the project (additional parking and construction of a storage barn), the impervious surface analysis, 1:1 mitigation, and DOT comments.

Mr. Johannessen reviewed the Kellard Sessions memo, requested the ratio of buffer disturbance to the mitigation area and details on removal of invasives. Mr. Riina agreed. Mr. Johannessen stated there will be stormwater management practices at the site.

The Board reached consensus to open the public hearing on August 17, 2021, ask its consultants to draft a resolution, refer the matter to ACARC and the Westchester County Planning Board (WCPB). [WCPB referral had been done previously and the Board received a 'no comment,' letter December 6, 2019.]

Mr. Moorman stated the new building is to sit atop a concrete slab, but he is not sure if it is going to be constructed of wood or steel.

Ms. Indelicato stated she would make a site visit.

III. SUBDIVISION

Cal #05-21PB

(39:07 – 40:22)

Truesdale Lake Property Owners Association, Hoyt Street paper road, South Salem, NY 10590, located between: Sheet 36A, Block 11172, Lot 34 and Sheet 36A, Block 10810, Lot 62 (Truesdale Lake Property Owners Association, Inc., owner of record) – Application for a lot-line change.

No one was present on behalf of the owners.

Ms. Andersen stated the application is for a lot line change that would allow for the installation of a dock and in the Building Inspector's memo he notes a dock is not allowed. Mr. Siebert noted the applicants had requested an adjournment to August.

IV. WETLAND PERMIT REVIEWS

Cal #49-21WP

(40:23 – 59:45)

Healy/Polowczyk Residence, 96 Lockwood Road, South Salem NY 10590, Sheet 48A, Block 9842, Lot 12 (Barbara Polowczyk, owner of record) - Application for an addition to an existing single-family house.

Barbara Polowczyk, owner; and William O'Neill, AIA, were present.

Mr. O'Neill reviewed the proposal:

- construction of a one-story addition (bedroom count does not change);
- existing garage moves forward;
- 1:1 pavement/lawn swap;
- removal of a 10'x10' shed;
- installation of a 10'x16' shed on gravel located farther from the wetlands;
- roof to drain to the rear, heading toward an off-site watercourse.

The Board, its consultants and the applicant discussed the subdivision map, drainage easements, calculating the stormwater flow rate, the topography, keeping the discharge on the subject property and the possibility of daylighting the flow, a biofiltration area, velocity dissipater, and rain gardens. Mr. O'Neill stated in order to keep the basement dry, they are proposing the roof and footing drains go on splash blocks and then the water runs across the lawn.

Mr. Johannessen stated there cannot be a physical improvement going on someone else's property unless one can demonstrate having that right to discharge off site. Ms. Polowczyk stated the pipe was on her property, but the water flowed into a swale on the neighboring property due to an easement. Mr. Siebert stated he will research the drainage easement.

On a motion made by Mr. Kerner, seconded by Ms. Indelicato, the Board determined that the construction of the Healy/Polowczyk addition at 96 Lockwood Road, South Salem will be handled administratively under a permit issued by the Wetlands Inspector.

In favor: Ms. Andersen, Mr. Kerner and Ms. Indelicato. Absent: Mr. La Sorsa and Ms. Maguire.

Cal #47-21WP, Cal #09-21SW

(59:45 - 1:29:30)

Beresford Residence, [253] Silver Spring Road, South Salem, NY Sheet 52, Block 10058, Lot 2 (David and Rozleny Beresford, owners of record) - Application for the construction of a single-family house.

David Beresford, owner; Paul Jaehnig, Certified Wetland Scientist; and Robert Roselli, P.E.; were present.

Mr. Jaehnig reviewed the proposal:

- construction of a one-family, four-bedroom house on a vacant parcel;
- paving the upper portion of the shared driveway;
- installation of well and septic;
- installation of two dry wells and rain gardens; and
- plantings in the wetlands and buffer will result in slightly greater than 1:1 mitigation.

Mr. Johannessen stated the expansion field was outside the wetland buffer whereas the proposed primary septic is within the buffer and the reverse must be explored. Mr. Beresford stated that if the primary and expansion fields were swapped, twice as many trees would have to be cut down and there would be a loss of privacy. Applicant agreed to study swapping the primary and expansion fields.

Mr. Kerner asked if a portion of the driveway is on the neighboring property. Mr. Siebert will review the deed.

Mr. Johannessen reviewed the Kellard Sessions memo and requested a separate existing condition survey, shifting the house or reducing the number of bedrooms to reduce the impact on the wetlands.

The Board reached consensus to refer the matter to the Building Inspector for zoning compliance review. They also scheduled a site visit for Saturday, August 14, 2021 at 9:00 a.m.

V. STORMWATER PERMIT REVIEW

Cal #11-21SW

(1:29:31 – 1:29:55)

22 Woodway LLC Residence, 22 Woodway, South Salem, NY, Sheet 38, Block 10808, Lot 23 (22 Woodway LLC, owner of record) - Application for the construction of a single-family house.

No one was present on behalf of the owner.

Ms. Andersen stated the owner has withdrawn the application and will be submitting the plans that previously received stormwater approval.

VI. SCHEDULE SITE VISIT

Cal #28-21WP, Cal #04-21SW

(1:29:56 - 1:31:02)

Fries Residence, 54 Bishop Park Road, Pound Ridge, NY 10576, Sheet 25, Block 10274, Lot 10 (Daniel Fries and Hanako Shimizu-Fries, owners of record) – Application for construction of a deck, garage and office addition.

No one was present on behalf of the owner.

The Board reached consensus to schedule the site visit for Saturday, August 14, 2021 at 9:45 a.m.[The applicant subsequently requested that the site walk be postponed.]

VII. REQUEST FOR WETLAND BOND REDUCTION

Cal #08-02PB

(1:31:03 – 1:33:45)

JVG Estates (formerly Popoli Subdivision/ 1437 Route 35) Bluestone Lane, South Salem, NY 10590, Sheet 40, Block 10552, (formerly known as Lots 3, 4 & 5) current owners of record:

- **Monica & Vito Di Matteo, Sheet 40, Block 10552, Lot 3 (was Lot 3 on plat) 5 Bluestone Lane**
- **Adam & Julieann Giardina, Sheet 40, Block 10552, Lot 41 (was Lot 4 on plat) 6 Bluestone Lane**
- **Chazz & Maria Gianna Palminteri, Sheet 40, Block 10552, Lot 42 (was Lot 5 on plat) 4 Bluestone Lane - Request for wetland bond reduction.**

Vito DiMatteo, owner, was present.

Mr. DiMatteo requested a wetland mitigation bond reduction because the plantings have shown a 50% survival rate after one year. Mr. Johannessen stated he inspected the site a few weeks ago, there was a 90-95% viability of the wetland plantings, the site looks good and he agrees with the reduction of the bond.

Mr. Siebert stated this wetland mitigation bond was imposed by the Planning Board and does not require Town Board involvement. He noted the most recent resolution dates from 2017, recites that the 50% reduction is dependent on approval from the Wetland Inspector, the applicant has met that standard and the resolution drafted for tonight's meeting outlines that.

On a motion made by Ms. Indelicato, seconded by Mr. Kerner, the resolution dated July 20, 2021, for the reduction of the wetland mitigation bond at JVG Estates, 1437 Route 35, South Salem, NY was adopted. A copy of the Resolution is attached and is part of these minutes.

In favor: Ms. Andersen, Mr. Kerner and Ms. Indelicato. Absent: Mr. La Sorsa and Ms. Maguire.

VIII. DISCUSSIONS

Town Board to amend §220-43.7 – Amending the Town Code to provide Special Use permit provisions for gasoline service stations.

(1:33:46 - 1:44:53)

Ms. Andersen stated the first amendment the Town Board had sent the Board to review listed a mile distance between gas stations; that proposed change has been withdrawn. She noted the current proposal has a distance requirement of 200' but a new station is prohibited if not already permitted by July 15, 2021.

Ms. Indelicato described this code amendment as a moratorium wrapped in legislation. She noted the July 15, 2021 date is arbitrary and asked if there was a reason for prohibiting new stations.

Mr. Kerner stated that with newer gas stations there are greater safety features – tank burial and automatic shut off – and this type of use shouldn't be regulated through political means but through legal planning and zoning regulations. He noted this amendment was not only arbitrary, but it was also capricious to propose this prohibition.

Ms. Andersen stated she is opposed to the proposed amendment, that per the 1984 Master Plan, this kind of use should be concentrated in hamlets. She indicated a town-wide prohibition of this type might need to be rescinded later and she noted the lack of a gas station in Goldens Bridge. Mr. Johannessen stated he has pre-application discussions regarding a potential application for a gas station at the Precision Motors site in Goldens Bridge.

Mr. Siebert noted the process to revise the comprehensive plan has begun and agreed to draft the response letter to the Town Board.

On a motion made by Ms. Indelicato, seconded by Mr. Kerner, the Board authorized the Chair to sign a letter to the Town Board stating that after its review the Planning Board finds the proposed changes to §220-43.7 of the Town Code to be an arbitrary moratorium not in keeping with the Master Plan.

In favor: Ms. Andersen, Mr. Kerner and Ms. Indelicato. Absent: Mr. La Sorsa and Ms. Maguire.

Updating in-person meetings, submission and mailing procedures.

(1:44:54 – 1:46:46)

Ms. Andersen stated that since March 2020, the submission requirements has been four hard copies and pdfs; board members no longer receive paper copies of the submissions. The Board discussed making that a permanent change and will ask Mr. La Sorsa and Ms. Maguire their preferences.

IX. MINUTES OF June 15, 2021.

(1:46:47 - 1:46:56)

On a motion made by Ms. Indelicato, seconded by Mr. Kerner, the Board approved the meeting minutes from June 15, 2021.

In favor: Ms. Andersen, Mr. Kerner and Ms. Indelicato. Absent: Mr. La Sorsa and Ms. Maguire.

X. NEXT MEETING DATE: August 17, 2021.

XI. ADJOURNMENT

(1:46:57 – 1:47:06)

On a motion made by Mr. Kerner, seconded by Ms. Indelicato, the meeting was adjourned at 9:21 p.m.

In favor: Ms. Andersen, Mr. Kerner and Ms. Indelicato. Absent: Mr. La Sorsa and Ms. Maguire.

Respectfully Submitted,

A handwritten signature in black ink, reading "Ciorsdan Conran". The signature is written in a cursive, flowing style.

Ciorsdan Conran
Planning Board Administrator

**RESOLUTION
LEWISBORO PLANNING BOARD**

**CHANGE OF USE PERMIT APPROVAL
WAIVER OF SITE DEVELOPMENT PLAN PROCEDURES**

**CAMERON'S DELI
890 ROUTE 35**

**Sheet 20, Block 10801, Lot 30
Cal # 03-21 PB**

July 20, 2021

WHEREAS, the subject property consists of ±1.46 acres of land and is located at 890 Route 35 within the RB Zoning District ("the subject property"); and

WHEREAS, the subject property is developed with a 2-story mixed-use building with several storefronts on the ground level; the second floor is unfinished; and

WHEREAS, Central Ave., White Plains, LLC ("the applicant") is proposing a change of use to expand an existing deli (known as Cameron's Deli) into a former physical therapy space, which is currently vacant ("the proposed action"); and

WHEREAS, the applicant is also proposing the construction of a single-accommodation (ADA compliant) bathroom, improvements to the existing outdoor seating area, and the installation of three (3) accessible parking spaces; and

WHEREAS, reference is made to a letter to the Planning Board from the owner of the deli, Ibrahim Jamal (undated), which describes the proposed use; and

WHEREAS, the subject property contains 64 parking spaces, and while the proposed accessible parking spaces may ultimately reduce the overall number of parking stalls by one (1) or (2) spaces, the Planning Board has determined that the proposed change of use will not affect the overall parking requirement and that the available number of spaces will be sufficient to accommodate the existing and proposed uses; and

WHEREAS, provided the second floor remains unfinished vacant space, the Planning Board has determined that no additional parking for the second floor is necessary at this time; and

WHEREAS, in accordance with Section 220-44 of the Zoning Code, a change of use requires Site Development Plan Approval from the Planning Board; and

WHEREAS, the proposed change of use qualifies for a waiver of Site Development Plan application procedures under Section 220-47A(1) of the Zoning Code; and

WHEREAS, the proposed action has been reviewed by the Town Building Inspector; reference is made to the Building Inspector's memorandum to the Planning Board, dated July 13, 2021; and

WHEREAS, a "notification only" referral^s was made to the Westchester County Planning Board in accordance with Section 239-m of the General Municipal Law; and

WHEREAS, the Planning Board is familiar with the subject property and the general surrounding area; and

WHEREAS, the Planning Board has considered the submitted Site Development Plan Application, materials submitted by the applicant in support of its proposal, the written and verbal comments from the Board's professional consultants, the verbal commentary made during Planning Board meetings, and testimony of the applicant.

NOW THEREFORE BE IT RESOLVED THAT, the proposed action is a Type II Action under the State Environmental Quality Review Act (SEQRA); and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby determines that the proposed change of use qualifies for a waiver of Site Development Plan application procedures under §220-47A(1) of the Zoning Code; and

BE IT FURTHER RESOLVED THAT, given the limited scale of the proposed action and in accordance with Section 220-46D of the Zoning Code, the Planning Board hereby waives the requirement for a public hearing; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby grants Site Development Plan Approval and approves the following drawings prepared by Mandra Workshop Architectural Design, dated (last revised) March 3, 2021, subject to the conditions enumerated below:

- Cover (Sheet Number T1)
- General Information (Sheet Number G001)
- Removal Plans (Sheet Number A101)
- New Construction Plans (Sheet Number A201)
- Reflected Ceiling Plans (Sheet Number A601)

BE IT FURTHER RESOLVED THAT, conditions #1 – #10 must be fulfilled within six (6) months of the date of this Resolution. Should these conditions not be completed within the allotted time frame, this Resolution shall become null and void unless an extension is requested by the applicant (in writing) within said six (6) month period and granted by the Planning Board; and

BE IT FURTHER RESOLVED THAT, Site Development Plan Approval, defined as the signing of the floor plan by the Planning Board Chair, shall expire unless a Building Permit is applied for within

two (2) years of the date of the signing of the plan or if all required improvements are not completed within three (3) years of the signing of the plan or if the construction or use shall cease for more than one (1) year; and

BE IT FURTHER RESOLVED THAT, any subsequent alterations, modifications, additions, or changes to the approved and/or constructed improvements shall require the prior review and written approval by the Planning Board as a new, modified, and/or amended application for Site Development Plan Approval; and

BE IT FURTHER RESOLVED, failure to comply with the approved drawings or any of the conditions set forth herein shall be deemed a violation of Site Development Plan Approval, which may lead to the revocation of said approval or the revocation by the Building Inspector of any issued Certificate of Occupancy.

Conditions to be Satisfied Prior to the Signing of the Site Development Plans by the Planning Board Administrator and Chair:

1. The applicant shall satisfy all outstanding written comments provided by the Town's professional consultants.
2. Each and every sheet of the Site Development Plans shall contain a common revision date with notation stating, "Planning Board Approval". The "Owner's Certification" signature block shall be revised to include the owners name and address below the signature line (printed), as indicated.
3. The accessible parking spaces as illustrated and detailed on the site plan are not compliant; the access aisle shall be a minimum of eight (8) feet wide. The detail and site plan shall be revised and a new parking calculation (total number of proposed spaces) shall be adjusted, as necessary.
4. The accessible signage detail is not compliant and shall be adjusted accordingly. Further, the signposts shall be shown to be located on the east side of the existing asphalt sidewalk, in front of the existing wood guide rail. The site plan and detail shall be revised.
5. A construction detail for with the new paver seating area shall be provided.
6. All applicable Town, County, City, State and Federal permits/approvals shall be obtained by the owner/applicant and copies of same submitted to the Planning Board and Building Department. Should the plans approved herein differ from those previously approved by an agency having jurisdiction, the applicant shall be responsible for obtaining amended permits/approvals, as determined necessary. The following approvals shall be obtained:

- The proposed change of use requires approval from the Westchester County Department of Health (WCDH).
 - The proposed action must be referred to the Architectural and Community Appearance Review Council (ACARC).
7. The applicant shall submit a "check set" (2 copies) of the approved Site Development Plans, prepared in final form and in accordance with the conditions of this Resolution, for review by the Planning Board's consultants.
 8. Following review and revision (if necessary) of the final plans, the applicant shall furnish the Planning Board with two (2) complete mylar sets of the approved Site Development Plans for final review by the Town's consultants and endorsement by the Town Engineer, Planning Board Chair and Administrator.
 9. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees.
 10. The applicant shall provide a written statement to the Planning Board Administrator acknowledging that they have read and will abide by all conditions of this Resolution.

Conditions to be Satisfied Prior to the Commencement of Work or Issuance of any Building Permit:

11. Conditions #1 – #10 specified herein shall have been satisfied.
12. Following the endorsement of the final Site Development Plans by the Town Engineer, Planning Board Chair and Administrator, one (1) mylar set will be returned to the applicant for copying and the second mylar set will be retained by the Planning Board as a record copy.
13. Within ten (10) days after endorsement of the final Site Development Plans by the Town Engineer, Planning Board Chair and Planning Board Administrator, the applicant shall deliver to the Planning Board Administrator nine (9) printed sets of the final plans, collated and folded.
14. No Building Permit shall be issued absent compliance with Town Code Section 220-75B(3).

Conditions to be Satisfied Prior to the Issuance of a Certificate of Occupancy:

15. No Certificate of Occupancy shall issue until all proposed improvements are complete to the satisfaction of the Building Inspector and the Town's consultants.

16. The applicants shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees.

Other Conditions:

17. The applicant is responsible for the implementation of all plans and documents referenced herein.
18. The continued validity of a Certificate of Occupancy shall be subject to continued conformance with the approved Site Development Plans and the conditions of this Resolution.
19. All commitments, conditions and requirements set forth in this Resolution shall be binding upon the applicant, its agents, affiliates, transferees, successors and assigns.
20. There shall be no outdoor music; live, recorded or amplified.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by: Mr. Kerner

The motion was seconded by: Ms. Indelicato

The vote was as follows:

JANET ANDERSEN	<u>aye</u>
JEROME KERNER	<u>aye</u>
GREG LASORSA	<u>absent</u>
MAUREEN MAGUIRE	<u>absent</u>
CHARLENE INDELICATO	<u>aye</u>



Janet Andersen, Chair July 20, 2021

**RESOLUTION
LEWISBORO PLANNING BOARD
AUTHORIZING REDUCTION OF
WETLAND MITIGATION AND STORMWATER PLANTING
PERFORMANCE SECURITY**

**JVG ESTATES LLC
BLUESTONE SUBDIVISION
(Formerly Popoli/Sicuranza)
1437 Route 35 South Salem, New York**

**Sheet 40, Block 10552, Lots 39, 40, 41, 42, 43 & 46
Cal. #8-02 PB**

July 20, 2021

WHEREAS, by Resolution adopted on December 8, 2009, the Planning Board granted Conditional Final Cluster Subdivision Plat Approval and a Conditional Wetland Activity and Stormwater Permit for a 6-lot residential subdivision proposed by Pasquale Popoli and Angelo Sicuranza ("Popoli/Sicuranza"); and

WHEREAS, the property subject to this subdivision approval and wetland activity and stormwater permit consists of ± 54.765 acres of land located on the southerly side of Old Post Road (NYS Route 35) and within the R-4A Zoning District; and

WHEREAS, JVG Estates LLC (JVG") is a successor-in-interest and title to Popoli/Sicuranza; and

WHEREAS, the Planning Board's December 8, 2009 Resolution was subsequently amended by Resolutions adopted by the Planning Board on September 28, 2010, February 8, 2011, June 14, 2011 and April 18, 2017; and

WHEREAS, Condition #12 of the Planning Board's December 8, 2009 Resolution, as amended on February 8, 2011 and June 14, 2011, was amended on April 18, 2017 to now provide:

Wetland mitigation and stormwater basin plantings shall be the subject of performance security to be posted in the amount of \$37,431.90. Said security shall be in the form of a deposit, in the sum of \$37,431.90, submitted to the Planning Board Secretary and placed into a Town of Lewisboro escrow account. Fifty

(50%) percent of the this performance security shall be released after a period of one (1) year, twenty (20%) percent of the original security amount shall be released after a period of two (2) years and fifteen (15%) percent shall be released following years three (3) and four (4). Should an 85% survival rate not be achieved at any time during this maintenance period, dead plants/shrubs/trees shall be removed and replaced in kind to achieve said rate; and

WHEREAS, the performance security required under Condition #12, as amended on April 18, 2017, was duly deposited with the Town of Lewisboro; and

WHEREAS, JVG has, by letter dated June 25, 2021, requested the release of 50% of the performance security currently in place under Condition #12, as amended on April 18, 2017, on the basis that one year has elapsed since the submission of an as-built plan confirming placement of wetland mitigation and stormwater basin plantings, and 85% of these plantings have survived this initial one-year period; and

WHEREAS, the Town Wetland Inspector and the Planning Board's consultants have confirmed that these wetland mitigation and stormwater basin plantings have been in place for a period of one-year and that a survival rate of greater than 85% has been achieved;

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to Condition No. 12 of the Planning Board's December 8, 2009 Resolution, as amended on April 18, 2017, the Planning Board authorizes the reduction of the aforementioned performance security by 50% (in the amount of \$18,715.95) and that all other requirements of Condition No. 12 of the Planning Board's December 8, 2009 Resolution, as amended on April 18, 2017, shall remain in effect.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by: Ms. Indelicato

The motion was seconded by: Mr. Kerner

The vote was as follows:

JANET ANDERSEN	<u>aye</u>
JEROME KERNER	<u>aye</u>
GREGORY LASORSA	<u>absent</u>
CHARLENE INDELICATO	<u>aye</u>
MAUREEN MAGUIRE	<u>absent</u>



Janet Andersen, Chair
July 20, 2021