Chairperson Don Danzeisen opened the Village of Harriman Planning Board Regular Meeting of February 24, 2015 at 7:33pm.

ROLL CALL:

Present:

Board Members: Chairperson, Don Danzeisen; Members, Martin Stanise & Juan Quinones, Alternate Members, Jennifer Phillips-Carrillo and Ron Klare; John Russo, Engineer, Kevin Dowd, Attorney, Ron Walker, Building Inspector and Jane Leake Recording Secretary

Absent: Irma Escallier & Frank Borowski

APPROVAL OF MINUTES:

Motion was made by Martin Stanise to approve the February 23, 2015 Regular Minutes. Seconded by Juan Quinones. All in favor.

36 State Route 17M
106-5-15
Revised Site Plan for Interior Renovations

Was put on Agenda inadvertently.

Harriman Family Dental
163-1-13.2
Site Plan for Dental Office with Additional Commercial Rental Space

No one was present for the above applicant.

Davelline Real Estate Corporation
101-2-3
Re-Establish Use

Present: Madeline Goldberg, Owner
           Chris Guddemi, Lan Associates

Mr. Guddemi stated to the Board that Ms. Goldberg would like to reestablish the retail use in one of the spaces in her existing commercial space on 17M. This is the same space that was the subject of the application when there was a change of use a few years back for a house of worship and that tenant fell through. So she would like to go a proactive measure reestablish the retail use in that space. Potentially in the future do some upgrades. Maybe the tenant will have space ready so she doesn’t have to go through this process when she has someone that wants to occupy that space.

Ms. Goldberg commented we have had several people that were interested in the space, but when they heard that it was not ready for retail, it was not put back from the house of worship to retail. They were like how long is that going to take and I would say I really don’t know and every one of them just backed out and said we don’t have the time to wait. We want to move our business. We want to move forward. Right now we have a vacant space inside that we really want to put money into and upgrade. We have some water issues that are going on. We need to work with the Village, which they know about. We have engineers in play and basically this is a start of an overall
improvement on the whole entire property, which we are going to be doing. Again, and time and time again, ever since 2006 the place has been vacant. It is a large financial hardship that we are bearing. We are asking you to just reverse it and put it back to its original, which was a retail establishment. The last retail space, it was called 3G's beauty supply store and it was there for five years.

Mr. Danzeisen asked any questions?

Mr. Russo commented the short form EAF is required.

Ms. Goldberg replied it was handed in and yes.

Mr. Guddemi stated I actually have a copy with me if you want.

Mr. Russo stated with regards to the parking, previously you were issued a variance to allow 65 spaces given a total of 127 be required. You are now up to a total of 132 required for parking calculations. So that variance is not going to cover.

Ms. Goldberg responded I want to mention and address this with you as well. I have documented for the past two weeks to prepare myself before I came before you and I do want to make you aware that although the garage made is so that even with the variance before we were 13 spaces short from the previous variance that we were approved. Again I'm sorry if it is convoluted, but we came before you because we had a tenant that was interested in the garage except he wanted to use it for a gym, that type of facility. At that particular time and a great expense we came before you and you had said to us, give us 13 more spaces of parking and we can do this. Now it is back to a garage the tenant was approved, he has been in there. We are now currently short 5 spaces, not 13 spaces. Correct?

Mr. Guddemi replied correct.

Ms. Russo stated you are short the 5 spaces.

Ms. Goldberg replied each and every day I work there 5 - 6 days a week and every single day there are a minimum of 5 if not 10 parking spaces that are vacant and that was even with snow taking up spaces. Each and every single day we had minimum of 5 empty spaces and that was with snow covering over 6 spaces and now it has melted and again it is never, ever full. Our retail space, we are highly impacted by the internet and I think that you need to. I'm not going to tell you how to do your business, but I just was to tell you our reality. Our reality is that our parking lot is never full. Internet has really been the shopping. You don't need parking space to shop on the internet and we are currently building our website in order to compete in that environment, but again, we are asking for your help here. Seriously, we are never full. It is never a problem. Again, for retail I think that it needs to be rethought because internet, as we all know, is the biggest competition to small retail stores that we have today.

Mr. Russo stated this Board does not have the abilities to do that. That actually has to go to the Village Board.

Ms. Goldberg replied okay.

Mr. Russo continued in regards to the Code and what is set forth in the Code. I am going by just based upon what was approved and the plan that was approved in November 2013 and what was shown on that approved plan at that time. As far as what was required for parking, the variance that was given and what is shown on the plans now. I understand and I know, I have passed by, there are vacant spots.

Ms. Stanis stated I pass there all the time and that is true.
Mr. Russo stated I will listen to your Engineer and see what he has to say about it. I know you are showing 13 spaces for future parking. I have questions on those as to why they are being shown.

Ms. Goldberg replied because we were asked by the Board to show it.

Mr. Guddemi responded it was part of the ZBA resolution for the change of use to house of worship. The ZBA resolution stated you had to provide 13 additional spaces.

Mr. Russo stated what I am looking at is the last approved site plan when you went back calling it vacant retail space. So that house of worship was actually gone at that point.

Ms. Goldberg replied it never was.

Mr. Russo stated they were calling it vacant retail space at that point.

Ms. Goldberg replied right. We went before you in 2009 and they backed out. So we may have gotten the approval for, we received a variance to change it from retail to house of worship. The parking requirements changed. We had to go before the Planning Board and the Zoning Board and I had sent a letter which somehow it was never received and I sent it a month after the tenant backed out requesting that they reverse it back to retail since it was not going to happen. Somehow it just never happened.

Mr. Russo asked the plan that was approved in 2013 the house of worship was space #4 in the back, correct?

Ms. Goldberg replied I don’t know what number you’re....

Mr. Dowd asked are you talking about this area back here (pointing to it on the map)?

Mr. Guddemi replied correct.

Mr. Russo continued so on the last plan that was approved in 2013 bolded out it is vacant retail space.

Ms. Goldberg replied because to us that is what it was. It was never a house of worship.

Mr. Guddemi asked so it is approved as retail space, correct?

Mr. Russo responded it is approved as retail space in that, but it was listed as vacant space and no parking calculations were ever provided on that plan and in the future when you had a tenant. You were just listing it as vacant space. You called it vacant retail space, but you didn’t list out anything as far as required parking. My question to you Kevin is since they showed it on the last approved site plan for the site regardless of what happened in 2009.

Mr. Dowd stated right. I am reading the variance. I just want to see how they phrased their variance and whether it is not referring at all to this particular space. Is it?

Mr. Russo replied no, it is referring to the entire site.

Mr. Dowd stated it is referring to the garage and it also talks about a 1561 square foot net. I’m not too sure where that is on the first floor. In reading the variance it stated the applicant has been advised by the Zoning Board that in event of additional spaces that attempt to be put in use on the premises. That said use may require return to both the Zoning Board of Appeals for a further variance and the Planning Board for further review.
Mr. Guddemi replied I think that is why we are here now.

Mr. Dowd stated I spoke to Madeline and I said in order to try to facilitate this I think you need to start here. You want to reestablish, one can argue that there is no use for that property since you had a variance for the church use. Basically it just went away, what does that leave you if you have a variance to change it? So that may be nothing. So this way you get the Board to bless it as retail space and then the question of the parking is something that we might talk about if we weren’t sure how many spaces you really needed.

Ms. Goldberg replied I was questioning whether to come before the Planning Board or the Zoning Board.

Mr. Dowd stated you had to start here anyways. So you have to be here, one way or another.

Mr. Guddemi replied the Planning Board needs to refer the applicant to the Zoning Board, correct?

Mr. Dowd responded it appears from the way that they phrased this that their saying that if you want another use in this building you need to come back to them. Otherwise, I would probably say you don’t have to go back, but they were very specific about it. So without further do I think we should get you there. Since they reduce 127 to 65 and now you are up to 132, so really what you are looking for is an additional 5 space variance.

Discussion broke out.

Mr. Russo stated if you have the documentation and you can tell them the history of the site that you always have these spaces free or whatever else.

Ms. Goldberg replied I’ve been taking photos of the parking lot on different days.

Mr. Russo stated that should help your case.

Mr. Dowd commented I think she established it. If you read the decision they seemed to be convinced by your argument that it is never full. That is why they gave you such a large parking variance. I would suggest you refer them to the Zoning Board for additional variance on the parking spaces and then hopefully get through that quickly and then come back here and we can process the application for the site plan.

Mr. Russo continued with his comments regarding the sign detail on you site plan. You need to provide the colors, whether it is going to illuminated or not illuminated. I would recommend just taking it off. You can always come back later on or the tenant you get can come in and get a sign permit from the Building Department and deal with the Building Department at that time to make it easier. Otherwise, you will have to provide us with all the information required for that. The other question I have is in regards to the dumpster area and what was approved on the last site plan. It is not shown on the plan. It hasn’t been constructed that way.

Mr. Guddemi replied we did show it on the new one.

Mr. Russo state this is what was on the last plan (point to the map) and that is not what is there now.

Ms. Goldberg replied what we have there is all of the shrubbery that we were required to occur. We laid down the item 4 that which we were supposed to do.

Mr. Russo asked can you take a look at the way this is because this is what was approved (showing them the map).
Ms. Goldberg replied and that is what it is.

Mr. Russo stated that is not what is shown on the recent plan that was submitted.

Mr. Guddemi responded we had a resurvey done on the property. Let me double check on that and make sure that ball wasn’t dropped.

Ms. Goldberg replied I think it was a typo error because it is exactly that way.

Mr. Russo stated that is what I wanted to make sure. That is why I was questioning it.

Mr. Dowd commented come back with whatever needs to be done. Get on the Zoning Board and come back here with whatever comments he has.

Ms. Goldberg asked we need to come back here?

Mr. Dowd replied after the Zoning Board so we can give you the site plan you need.

Discussion broke out.

Mr. Guddemi commented it is either that or construct 5 spaces.

Mr. Russo stated they could give you the variance on the parking. You may also want to check with them, you may not have to show all the shadow parking.

Mr. Guddemi replied we were showing that just graphically to represent that the site can support additional spaces if need be.

Mr. Russo stated I got up to more like 30, rearranging it, but the spaces you show don’t even meet the Village’s standards.

Mr. Guddemi asked you said 10x20?

Mr. Russo replied 10x20 not 18x9. If you get the variance you may not even have to show shadow parking. If the ZBA requested that it be on there you can take it off until the area variance is granted.

Ms. Carrillo asked once we come back here do we need to once we get the variance what are your next steps?

Mr. Dowd replied the site plan.

Ms. Carrillo asked just a site plan approval?

Mr. Dowd replied any additional space be returned back to retail.

Ms. Carrillo asked if the site was already a B-2 and the use for the variance was never full-filled, wouldn’t it automatically convert back to a B-2?

Mr. Dowd replied it is arguable and I don’t think you want to be arguing with anybody.

Discussion broke out.
Mr. Dowd continued there is no use for the property now because it was changed and you didn’t revoke the change therefore the change took away the retail and put in a religious use. Just because you didn’t perfect the religious use, it doesn’t mean that the retail then reappears all of a sudden.

Ms. Carrillo replied right, okay, but I guess legally that makes sense to you, but it doesn’t make sense to me.

Mr. Dowd stated it would be instituting the church use and then the church leaves and you say I am just going to just go back to retail.

Ms. Carrillo replied well the church kind of never appeared though.

Mr. Dowd responded I understand that, but the change of that use from retail to religious and even though you never followed through on it the Board ....

Ms. Carrillo replied it doesn’t just fall off.

Mr. Dowd continued you don’t just say goodbye and it is retail again. This way there is no legal question at all for you in the future. You can get it cleared up and hopefully you can find people to rent it.

Ms. Goldberg replied that is our goal.

Motion was made by Juan Quinones to refer the applicant to the ZBA. Seconded by Martin Stanise. All in favor.

There being no further business, MOTION was made by Martin Stanise to adjourn the Regular Planning Board meeting at 7:55pm. Seconded by Juan Quinones. All in favor.

Respectfully Submitted: Jane Leake, Recording Secretary