

VILLAGE OF HARRIMAN PLANNING BOARD MEETING

**Regular Meeting
September 21, 2015
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Chairperson Don Danzeisen opened the Village of Harriman Public Hearing of September 21, 2015 at 7:30pm.

ROLL CALL:

Present:

Board Members: Chairman Don Danzeisen; Members, Irma Escallier, Ron Klare, Juan Quinones, Martin Stanise and John Russo, Engineer, Kevin Dowd, Attorney, Ron Walker, Building Inspector and Barbara Singer Recording Secretary

Absent:

Alternate Jennifer Phillips-Carrillo

PUBLIC HEARING

HARRIMAN FAMILY DENTAL

103-1-13.2

Present: Bill Johnson, Engineer from Sparaco & Youngblood; Leah Martirossian, owner

Leah Martirossian returns all of the certified return receipts to Kevin Dowd, attorney, for review.

Mr. Johnson begins Harriman Dental office has an existing dental office on Route 17M. It's a small house that's been converted in to a dental office. They are planning on adding a two office commercial building. The square footage is 3568; there is a basement which will be used for storage. They intend to build a parking lot in the rear of the building that would suffice for customers and use the existing parking lot on the left side of the entrance for office employees. We moved three additional parking spaces, parking previously close to the State right of way and enlarged the State right of way. We presented the State Department of Transportation with the plan and we are very close to having their approval. We have presented the Village with a drainage report and there will be zero net runoff from the improvements that are being made. We have no variances required for this site. We did not have to go before the Zoning Board of Appeals and the building fits nicely on the property. There would be a sign on the front of the property that would be close to the front of the property but set back from the ten foot parking setback line.

Chairman Danzeisen asks if there is any Public comment, there being none, he asks for comments from the Board, Engineer and Legal Counsel.

Mr. Russo responds we are still waiting on approval from Orange County Sewer District. Although they have been giving them a little bit of a hard time, they say that they're not going to issue anything until they have final approval, and then we'll just stamp the plans. They are working on getting their DOT permit, and we received a copy of an e mail from Mr. Johnson tonight from Kimberly Hankin, permit engineer for DOT. Basically we can see from that letter that after there are some minor revisions they will provide an acceptance letter. They are just about done with DOT. The other thing is the lack of sight distance, the driveway is going to be a right turn in and a right turn out only. There is limited sight distance from the north. Other comments that I had in regards to it were on sheet 2, the entrance area, there's a lot of information presented there. It should be in a larger scale. The receiving trench, I know that we spoke earlier, but there is a proposed temporary work easement still.

Mr. Johnson replies, the plans can be made in a larger scale; that is not a problem. It came about in the last week that our client had attempted to get the work easement but the neighbor across the street was giving my client quite a hard time. In fact we actually relocated the easement to another location that was more convenient for him and he still wants more from our client. So we had the Ruby Group find a contractor that could do the job without needing the easement at all. It will work within the state right of way and connect the sewer. So we no longer need that easement, so we've taken it off the plan. The plan that was submitted to NYS DOT does not have it on it. I did not bring revised plans yet because the detail

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has to be changed and we would like to provide you with plans that have all of the changes necessary to have the job done.

Mr. Johnson continues, the first item that you mentioned was Orange County Sewer District and they have approved the plan but they asked us to send up more plans for signatures and now we are waiting on the signature. They told us that it is approved.

Mr. Russo says the other comments that I have is as part of the improvements they are doing for the DOT, they have now added two catch basins in the entrance road. These catch basins have now been tied over to the proposed on site storm drainage system. We are asking for an updated storm drainage report. Mr. Sparaco said that he would get me a revised report. And the last thing that we discussed at the last Planning Board meeting was the location of a dumpster.

Mr. Johnson replies that was my fault, I totally forgot. It was not done on purpose and we will put it on there.

Mr. Dowd confirms that they are in compliance with twenty-one out of twenty-five mailings returned. If you receive any more in the future, please return them to the clerk.

Ms. Martirosian agrees.

Ms. Escallier asks that they use the name Harriman Family Dental for filing purposes with a dba Leani.

Ms. Martirosian agrees.

There was no public comment.

Motion was made by Member Escallier to close the Public Hearing. Seconded by Member Klare. All in favor.

APPROVAL OF MINUTES:

Motion was made by Member Klare to approve the August 21, 2015 Regular Minutes. Seconded by Member Quinones. All in favor.

HARRIMAN FAMILY DENTAL / LEANI

103-1-13.2

Site Plan Approval

Present: Bill Johnson, Sparaco & Youngblood; Leah Martirosian, owner

Chairman Danzeisen asks are we waiting for Orange County Sewer approval.

Mr. Russo says that the Planning Board can make it a condition for approval as far as Orange County Sewer District is concerned.

Chairman Danzeisen asks will they act on a conditional final.

Mr. Russo replies that's a good question.

Mr. Johnson responds that we expect the plans to be coming back now any day. They are in the process of getting signatures.

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Chairman Danzeisen states that before the drawings would be signed we have to have a copy of the signed plans from Orange County Health Department.

Mr. Russo says that the other condition would be the approval letter from NYS DOT and the other comments that I had in regard to the enlargement to the entrance road, the easement that you say you're not going to be using now so that can be stricken.

Mr. Johnson explains since we relocated the sewer to accommodate the neighbor across the street to give us the easement. The receiving pit is now totally in the right of way. And according to the Ruby Group there will be no use on that property at all.

Mr. Russo says the other condition is the revised drainage report. And the addition of a dumpster with possible enclosure.

Mr. Dowd says that it is needed to do a negative declaration.

There were no comments from the Planning Board or the public.

Motion was made by Member Escallier to have a negative declaration for Harriman Family Dental made. Seconded by Member Quinones. All in favor.

Motion was made by Member Klare to grant Final Site Plan approval subject that the conditions that there is a signed plan from Orange County Sewer District No 1; a signed letter with the NYS DOT approving the entranceway; a dumpster and dumpster enclosure on the property; and a larger scale entrance plan and revised plans satisfactory with the Village engineer. Seconded by Member Escallier. All in favor.

GARFIELD PLUMBING & HEATING

106-5-15

Site Plan Approval

Present: John Loch, AFR Engineering & Land Surveying; Mr. Klein, owner

Mr. Loch states when we were last before your Board there were some questions that had to be answered by the Zoning Board of Appeals. Essentially there were three items that came up. One was if the storage required special use permit, and the ruling was that it did not. The second concern regarded an outdoor cabinet that we were proposing to store propane, acetylene containers and the Zoning Board ruled that that didn't require a variance however they wanted us to note specifically the size of the cabinet that we are proposing to use on the plans, and we have done that. And the last item concerned parking, and from the applicant's stand point we didn't need as much parking as was required. And there were some issues in respect to the use of two of those spaces we were proposing along the southerly line of the property. Basically there is an easement through our property; the exact location of the easement is not really defined by meets and bounds. The applicant did attempt to see if they could resolve things with the adjoining property owner who has the rights to use that to get a more specific location and they did not wish to engage in that process. They are happy with the way things are now. Ultimately the Zoning Board of Appeals granted us a variance in a reduction in parking so that we don't need those two spaces. And we have eliminated those from the plan.

Mr. Russo responds we received a letter back from Orange County Department of Planning. Their only comment was the on-site parking. The site plan shows five parking spaces in front of the building, the application refers repeatedly to six spaces. There are six spaces. One of the lines for one of the parking stalls runs over one of the topographic lines along with the pavement lines so they kind of lost it, but they do show six spaces. But for clarity I'm asking for each of the spaces be numbered.

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Mr. Loch says that we have no problem with numbering the parking spaces.

Mr. Russo continues, second on the southerly side of the building, it is now paved down along the building edge. That needs to be shown on the plans.

Chairman Danzeisen states that I've noticed a truck parked there too.

Mr. Russo asks is that truck in and out picking up supplies.

Mr. Klein replies that this is an extra truck and it is just sitting there.

Chairman Danzeisen explains when they dug around the building to put in the curtain drainage, they disturbed all the soil.

Mr. Russo states that the pavement up to the building will have to be shown on the plans.

Chair member Danzeisen states that the site plan will have to be revised.

Mr. Dowd states I have the Zoning Board of Appeals decision and I would just like to make sure the outdoor storage cabinet for the gas cylinders was very specific in the dimensions of it and where it was going to be located.

Mr. Loch replies yes we have indicated it on the plans, specifically with the dimensions that were called for and where it would be located.

Mr. Dowd replies 70 x 33 x 38

Mr. Loch agrees

Mr. Dowd responds also regarding the parking. It was very specific as to which parking spaces were removed and I want to make sure that those match the plans.

Mr. Loch replies, yes we moved the two on the southerly boundary.

Mr. Dowd says that we need to do SEQRA and we need to be the lead agency on the site plan and a negative declaration.

***Motion** was made by Member Escallier for Lead Agency status on Garfield Plumbing & Heating. Seconded by Member Klare. All in favor.*

***Motion** was made by Member Escallier for a negative declaration. Seconded by Member Quinones. All in favor.*

***Motion** was made by Member Escallier for Site Plan Approval with conditions of the parking stalls being numbered, and the plan being updated showing the paved area on the south side of the building. Seconded by Member Klare. All in favor.*

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SUPERIOR PACK GROUP
108-1-11
Revised Site Plan

Present: John Furst, Catania, Mahon, Milligram & Rider Attorney; John Loch, AFR Engineering & Land Surveying

Mr. Loch states I know this project hasn't been before you in quite a while. There were some issues that came up with finalizing things. In particular the owner of the property declines to sign the maintenance agreement for the storm water facilities. It is my understanding that there have been a number of meetings to try and resolve that issue. I have with me Mr. Furst, the attorney for the applicant, whose been working on the aspect of the issue. What I was asked to do for this project was to bring it in with the addition of some loading docks. We're proposing just to add a couple more openings to the building, some additional loading facilities along the south easterly face of the building. They would be if you are looking at that wall of the building to the left of where the existing loading docks are and they are where the trucks are currently parked.

Mr. Dowd states before we get to the issue of a loading dock which is really an amendment to a plan that isn't even a final. It was a conditional final and the conditions were never met.

Mr. Furst responds the tenants, our clients, met with the Mayor and the Village attorney just a couple weeks ago. They have been trying to get the landlord to sign off on the storm water agreement. The land lord and his associates are refusing to sign off on it, they are not cooperating. We have done everything that we could. I was able to talk with Ben Ostrer (Village attorney) and the Mayor a couple weeks ago and it came to an agreement on how to resolve this issue and also protect the Village interest. We are going to enter into a restoration agreement or post a restoration bond. The hope is that we are a long term tenant and we have an option to purchase. We hope to purchase the property eventually and then they can sign the storm water maintenance agreement, your standard form. In the event that they are no longer the tenant or they don't purchase the property, they are going to post money with the Village and they are going to promise to restore the property back to the way it was as if the approval never happened. Therefore you don't have the increased storm water and the sand filtration system that was required by the Planning Board. So it was basically going to put everything back the way it was; as if we were no longer the tenant. And that way the Village is protected, and they don't have to worry about maintaining the storm water filtration system if my client is no longer the tenant or owning the property. So that was worked out with Ben Ostrer and it is my understanding that the Village Board met a week or so ago and they agreed to the concept.

Mr. Dowd replies, Mr. Mahon, your partner, was originally before us. Why Associates refuse to get involved with this maintenance agreement that you've been putting together. There was a proposal of the Village and your client entering into an agreement. And your client would guarantee the maintenance of this filtration system. At that point it was my understanding that the Village Board refused to do so. And that threw us back to square one again. So whose maintaining this system?

Mr. Furst states none of the improvements have been made because we don't have a final site plan. We can't get our land lord to sign off. So we can't proceed without final site plan approval, right?

Mr. Dowd states you had a conditional, but none of the conditions have been met. So the basis of this is that you can install this filtration system, and you're going to have an agreement to maintain it. But there is no agreement to maintain it.

Mr. Furst responds we will have an agreement to maintain it as a tenant with the Village.

Mr. Russo states that a maintenance agreement also requires the signature of the property owner.

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Mr. Furst states that we can't get because they're refusing to do that. So the thought is, the property owner is not signing and the Village is worried about if my client, the tenant, is no longer there. The Village doesn't want to maintain it; they don't want to have the cost to maintain it. It would be hard to enforce with the next tenant. So the idea is, if the tenant ever leaves the property, they're going to restore it, take off the pavement, and put it back to where it was beforehand. That way there's no increase storm water.

Mr. Dowd asks your client has been operating this business without any approvals.

Mr. Furst replies, no that's not true.

Mr. Dowd replies the town has given them approvals. Then you had to come to us. We gave you a conditional approval, but those conditions have never been met. And that was quite a while ago. In the code it may say that it has actually expired. Over time, you tried but you were never able to satisfy those conditions. Now you're coming in front of the Board asking to amend a plan, for three loading docks, for a site plan that is unapproved.

Mr. Furst explains we don't expect the final approval until the agreement and restoration is signed with the Village. We expect to have this agreement in the next week, or couple of weeks.

Mr. Dowd states we gave you approval on April 15, 2013, almost two and half years trying to get this resolved. I'm not saying the Board cannot look at the additional locking docks, but it would be nice if we could get everything on track.

Mr. Furst states I think the idea is for the Board to focus on the three extra proposed loading docks. Of course we are not expecting you to take any action, to make any approvals, until the storm water maintenance agreement issue from the prior conditional approval is satisfied. We're just trying to get a feel as far as planning perspective in adding the three loading docks.

Chairman Danzeisen asks you're about a week or so away from getting an agreement.

Mr. Furst responds I hope; I sent Ben a draft a couple of weeks ago.

Mr. Russo says I did speak with the Mayor earlier and he did say that two weeks ago he had a meeting over at Ben's office with regards to this project. He hasn't seen the agreement yet; nothing has been signed by him yet.

Mr. Dowd asks did he say that he has a basic understanding of what that agreement should be.

Mr. Russo says yes; but he didn't tell me any of the details.

Ms. Singer states there are funds in the account as per Chairman Danzeisen's request

Chairman Danzeisen asks now what happens if this all falls through with the Village? At this point in time I don't see any reason for going further until we get some approval from the Village.

Mr. Dowd says what happened was your client had approval from the Town of Monroe Planning Board but part of this building and operation is in the Village of Harriman but they never came here for whatever reason.

Mr. Walker states they installed a fence for a compactor without getting a permit.

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Mr. Dowd says the building was build years and years ago, and then there was a total change in use, I believe. Then there was an addition put on. The Board went ahead, took your client's application so they could give your client conditional final approval so they could operate. Now we're not getting anything, we're not getting signed plans. And now your client wants three additional loading docks.

Member Escallier states that we need to start over; it's been more than two years.

Mr. Furst states that according to the Village code, there's no expiration on a conditional approval.

Mr. Russo states the biggest thing that came out of the Public Hearing was the trucks parked in the entranceway, refrigeration units running. Tonight at 5:30, I went to the site and there were trucks in the entranceway, refrigeration units running. Trailers parked in the car parking area. The thing that needs to be looked at is that you're adding three more loading bays, how much more truck traffic are you going to be generating?

Chairman Danzeisen states that this was supposed to have been taken care of.

Discussion broke out.

Mr. Furst states the bottom line is they need these three loading docks; you need the storm water agreement signed.

Chairman Danzeisen states we need the trailers not parked in the entranceway and the refrigeration units shut off. And they haven't done that in the two and half years. We asked that of them the last time someone from your firm was here and they assured us that they were going to cooperate, and that wasn't going to happen.

Mr. Furst states that the message is loud and clear.

Chairman Danzeisen says that the message was loud and clear then too.

Mr. Dowd states it would be up to the Board if this requires another Public Hearing. We required a site plan on the original application, and now there's an amendment to the site plan.

The Board responds that it would require another Public Hearing.

Mr. Furst asks if there are any other complaints or concerns regarding this site other than the trucks and the refrigeration units.

Member Klare states that there's a lot of garbage.

Discussion broke out regarding the garbage.

Mr. Furst states that this is news to me because when I met with the Mayor two weeks ago he said I know that we got off to a rocky start but things have been much better lately. I acknowledge that the site is not perfect, but it's better than it was and according to the Mayor, he was pretty satisfied with the site. But in any event, I'll take all of your concerns back to the client.

Mr. Russo asks as far as the truck parking, do we need more truck parking now? Depending on how much you're going to have come in and out of there

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Mr. Loch responds I think that they have found that their loading time take much longer than they thought which is why they are looking to have more bays. I'll ask them what they anticipate.

Mr. Russo states that there's a right of way on the property but it's not on the face of the building. On the interior where they're doing the loading docks, the storage areas, are they staying storage areas, and just loading out through there. They're not doing any other operations in there?

Mr. Loch replies, the operations are not moving to that area.

Chairman Danzeisen asks the loading dock that they're going to be installing, is that the standard loading dock or a hydraulic weight and electronically controlled with hooks that grab the trailers, and warning lights? Which is now required throughout the state.

Mr. Loch replies I wasn't aware of that. I will discuss that with the client.

Mr. Russo says that there is an easement, a sewer easement, on the side of the building. It's off from where they want to do any improvements.

Mr. Dowd states I think that you have to start with the application, filing an application, for this new request. I think we received a letter and some plans. So you should apply to revise the amended site plan approval

Member Escallier asks didn't it expire. It has been over a year and some months ago.

Mr. Dowd explains, Mr. Furst has made an interesting argument. The way that your Code is written it's a difference between final site plan and conditional final site plan. So one could argue, and I think that Mr. First would argue that, since it's a conditional final site plan granted and the conditions never expire. They don't expire until it's final. And they don't do anything.

Chairman Danzeisen says that when we do this it will be a final site plan with conditions; instead of a conditional final.

Mr. Dowd explains this is really something that most communities have, the conditional final wills. And after so many months would just not survive. As opposed to having a signed plan and they don't take any action on it. This is the way Mr. First would interpret it. And that's a fair reading of it. I don't want to argue that point. The point is how do we get a better grip on this thing. Unless the Village Board agrees to what they're talking about all the drainage on this site becomes a real problem.

Chairman Danzeisen states the key is to get an agreement with the Village Board because with three more loading docks and we are going to exasperate the drainage system.

Mr. Furst states that the docks are going over a paved area, luckily. But it's still an issue that has to be resolved because they're going to add as part of your conditional site plan approval from a couple of years ago. They are going to add more parking spaces for the trucks.

Mr. Russo states that they're not enough trailer parking spaces for the number of trailers on site. So the question now is he might have to expand truck parking area or limit the incoming trucks.

Mr. Dowd suggests that next month Superior Pack file a new application for an amended site plan, you have your plans pretty much laid out; incorporate these three loading docks in the plans. Hopefully by the time you get back here, you'll have an agreement with the Village and you'll know where you are going with these issues. If anything the Board will have to decide whether they want another Public

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Hearing on this new addition and there's also the issue of truck traffic, There's the aspect of SEQRA, we would want to reopen until they show us that there's not going to be any contention and we'll go from there.

Chairman Danzeisen states I agree with the attorney.

**PL GROUP – ADD STORAGE
108-1-11
REVISED SITE PLAN**

Present: Bill Johnson, Engineer from Sparaco & Youngblood; Allan Peck, Owner; George Sewitt, Associate

Mr. Johnson states we have been before this Board several times now and the latest outstanding issue that we had was the wetlands. We have filed a wetland application via B Fare Associates and I have copies of the letter from Brian Orzel, Army Corp of Engineers. We have not fully complied with their requests yet, but we are very close to having an answer. A couple of the issues were that on our grading plan we left off the fill area at the rear front portion of the building and on the major part of the wetland we were going to fill approximately five feet wide along the building so that they have better access to it and could actually build a foundation. We now have that on the plan and I have three copies of the plan here if John wants a set of the revised set that we sent in to the Army Corp of Engineer which B Fare will be sending in to the Army Corp of Engineers. His corrections are not on there yet from the wetland expert but ours are.

Mr. Russo replies that I'll just wait until you give me the whole set.

Mr. Johnson replies, ok that's what I'm asking. I brought them just in case. The other issue was the twenty foot wide easement. The sewer easement that really has no use anymore. I'll have George Sewitt explain to you about that.

Mr. Sewitt states basically the oft easement to nowhere was in favor of Site C in the Interchange Commerce situation and what happens was there were several different owners. And we now traced exactly who owns it because when this site changed ownership, rights to that easement changed with it. The new owners had no idea about the easement because they weren't involved in the original situation. And just to bring everyone up to date, I'm not sure what's known or not known, and now that I have all of the facts, originally that was put in place as a contingency because at the time there were lawsuits going on between the various municipalities and were able to use Sewer District No 1 and the Village of K.J. It was about capacity and who had capacity so everyone in Woodbury and Harriman and Monroe, etc, was forced to have contingency enrolled I their plans for sewer capacity. The alternate plan that was designed for this was that Site C would be able to put their sewerage on to South Commerce Drive on Lot 14 and it was contemplated that a package plant would be built. That package plant was not built and the site reverted back to a developable site and Site C is now part of Orange County Sewer District #1. So that's the history of it. In conjunction with all of that, there were several different owners of that property. We have now identified and have been in contacted with the current owners, one of which is Kimco Reality. We have been in contact with their development and legal department and very shortly we should be getting a sign off on a release, because they are in abandonment. That's basically what they need to do. As of this moment I do not have that. There's one other owner as well, called Millwood Place, and we are working on getting them to sign off on it as well.

Mr. Russo asks if that's the owner next door to you

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Mr. Sewitt states that he owns the property next door to us. And evidently I'm hearing there are some issues with that.

Mr. Dowd replies I received a phone call from an attorney who represented 12 Commerce Drive Real Estate LLC

Mr. Sewitt states that's the entity that controls the site next to our site. It's the same owner. Usually with a lot of big developers, as I am sure that you've experienced this, is that each development that they have is a different corporate entity so nothing can be comingled.

Mr. Dowd replies what the attorney told me was that when we held our Public Hearing, 12 Commerce Drive Real Estate never received their notice of the Public Hearing. And when I contacted Barbara, it turned out there was a mistake with the PO Box in Newburgh so the owner never got notice of the Public Hearing.

Ms. Singer states the PO Box was correct, it seems that the zip code may have been incorrect.

Mr. Peck shows the report from the Post Office tracking website that the letter was available for pickup on the 9th from that local Post Office in Newburgh. He also shows the Board the torn letter that was returned from the Post Office.

Mr. Dowd states I would like to recap for the Board. The attorney, from 12 Commerce Real Estate, told me that their client never received the notice and found out about it when he was approached about the easement, to relinquish the easement. He asked what was going on and asked to see the plans. And I'm not exactly sure what transpired after that but I was told it wouldn't be a big deal as long as they got to look at the plans before you approve it and make whatever comments they may want to make. Apparently they were having some problems getting to see the plans. I don't know if it was George that they were speaking to but they asked if you would send the Engineer in a PDF format plans and you wouldn't do that.

Mr. Sewitt replies no that's not entirely true. What happened was I had spoken with Martin Milano, the owner. Martin asked for some plans. I sent them the front page of the plan, which showed the footprint, all of the information that he would possibly need. What he's looking for is all correspondence, all plans, all Army Corp of Engineer information, everything as if he were doing the review at the level that you are. And the owner, Allen Peck, objected to him going into that kind of in depth review. But the argument is that he's saying that he wasn't served correctly for the Public Hearing and that's incorrect. I think what really happened was your list had the wrong zip code but the parcel was sent to the correct zip code. I pulled this off the Orange County website today, just to show that you can go on it yourself, it shows the address and the zip code for Commerce Drive which is the property that he owns there. And I also pulled the most current tax information and this is his main corporate entity with the same PO Box and the same zip code. So nothing was sent to the wrong address. The thing that I'm curious about, and I'm not trying to make a federal case out of this, but if you notice on the receipt from the Post Office, it says that it was available to pickup, and all of a sudden we get it back, and it's ripped open to the point that someone could have opened it up, looked at it, and put it back together again. I'm not suggesting that this happened but it is a possibility. And then it becomes a whole damage issue.

Mr. Dowd says I had a conversation with their attorney today and I was concerned about procedural defects. And whether or not we had to do another Public Hearing. I don't want to put Mr. Peck through the expense of doing it, if we don't need to do it. I don't know how this became mixed up, where it became mixed or if it became mixed up.

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Mr. Walker replies the people from 12 Commerce Drive came in and wanted to see the wetlands at Harriman Family Dental. And I told them that there weren't any wetlands, and then they decided it's not that, it's the one on Commerce Drive. They came in to look at the plans and didn't even know what they were looking for. And I did show them the plans here exactly what we have.

Mr. Russo adds that I was contacted by your neighbor's engineer also.

Discussion broke out.

Mr. Sewitt states that there is one other issue that I would like to bring up and that's in your Public Hearing Notice that was sent out on the July 6th, which would be the correct date. The problem is the way this is written the Public Notice talks about a July 20th Public Hearing but there's the date on it July 17th. I think that Mr. Milano is a bit confused with that, thinking wow I wasn't noticed properly.

Mr. Dowd replies that was not the issue that the attorney was raising. The issue was not receiving it. But all of this comes down to a conversation that I had this afternoon. Whatever we have here they have a right to come down and look at it. They can have copies of everything if they wanted it. The impression I get is that they are not opposed to giving them what you want to release that easement. He wants to make sure that there's no impact on his property. What he wants is to see the plans, make comments to this Board, before you take any action. But I told him that we're still waiting for the Army Corps of Engineers to sign off on this thing. We're not taking any action tonight, so if your client's engineers want to come down, write a fifteen page letter to the Planning Board and submit it, you're welcome to do so. You would have been able to do that if you'd received a notice. There's some friction here, I'm not sure what that has to do with. In this particular case, now that I've seen this stuff, I would feel more comfortable now seeing the documentation that you've presented, and what was returned from the post Office, but at the same point and time, you're looking for him to give you a sign off on the easement, are you not?

Mr. Peck replies yes, I understand. I would rather deal with this Board. I want to compliment the fact that we have really done a phenomenal job together to have Utopia in a project. We didn't have that before, we have it now. I'm very comfortable and very proud of what we've achieved. And if it's all held up because I can't get a signature from this neighbor, then I'm walking.

Mr. Dowd replies I wouldn't want to see you go through all of this travail here get your conditional approval, and then he turns around and starts an Article 78 movement. But that's going to further delay your project and put further cost on you. That's why I think if he wants to submit something to this Board, let him. He is not allowed to see any of your private correspondence. He is allowed to see what's on file, what this Board is seeing.

Discussion broke out.

Chairman Danzeisen states the next meeting is set for October 19th. If this gentleman has any comments to make about this he has to have paperwork to this Board by October 5th, that's two weeks prior to the meeting.

There being no further business, **MOTION** was made by Ron Klare to adjourn the Regular Planning Board meeting at 8:45pm. Seconded by Martin Stanise. All in favor.

Respectfully Submitted:


Barbara Singer, Recording Secretary