

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**

**Regular Meeting**

**October 19, 2015**

**Page 1**

*Chairperson Don Danzeisen opened the Village of Harriman Regular Meeting of October 19, 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, and Barbara Singer Recording Secretary*

**Absent:**

*Alternate Jennifer Phillips-Carrillo*

**APPROVAL OF MINUTES:**

*Motion was made by Member Klare to approve the September 21, 2015 Regular Minutes. Seconded by Member Escallier. All in favor.*

**PL GROUP – ADD STORAGE**

**108-1-11**

**REVISED SITE PLAN**

**Present: George Sewitt**

*Mr. Sewitt states just to bring you up to date on what's going on, from our point of view, we are moving forward with everything that's being required by the Board. We are waiting on the Army Corp's response for final approval of our nationwide approval. And as many of you know the Army Corp is understaffed, they take their time but they promised us that they would give us a speedy response. So we are anticipating that in the near future. There are some other loose ends that need to be cleaned up and we are working very diligently on getting them cleaned up. One issue that was brought up last time, and is becoming a little more problematic, was the neighboring land owner. I guess his attorney and his engineer have reviewed plans, and they have a whole bunch of comments. Some of their comments are based on old information, some based on their new information that they're getting from their FOIL request. But my question to you is, this application has been reviewed by your engineer, yourselves and your attorney, quite diligently and over a long period of time, so how long will we entertain this going forward and all of their requests, it is quite obvious that a lot of their requests are based on an agenda that suits them, more than on real facts and material issues. So I am wondering, so I can go back to the property owner, and tell him where we stand on this. How much longer is this going to go on? There was a letter from their attorney saying that their engineer hasn't seen everything, and they want to review it further and not to close this issue and give the final approval. You wouldn't do it anyway because Army Corp and a couple other issues are outstanding and that's fine but if they first got the FOIL now, by the time they review it and hand it in towards the end of the month and our people need time to respond, this could go on month after month. So just my question to let me know what's going on, how far are we going to allow this inquisition to go on.*

*Mr. Dowd states the whole purpose of the Public Hearing was to afford the opportunity to the adjoining property owner to make comments. They have made comments, they may make additional comments, what this Board does with this is up to this Board. And frankly George I don't think you need to respond to their comments. It's up to the Board's engineer who would decide what comments need to be addressed. There may be only one comment that he deems relevant, maybe he has a different interpretation with. They can make all the comments that they want, but it's really up to this Board on how much they need to consider, and I'm assuming that they are going to take into consideration what the*

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**

**Regular Meeting**

**October 19, 2015**

**Page 2**

Engineer said. I've already talked to their attorney this afternoon, and I said this is not going to go on forever, and he said I never expected that. It is basically to give my client the opportunity to make his comments, he may want to make more comments but he does understand that it is in the discretion of this Board and your engineer.

Mr. Sewitt replies this is based upon the allegation that they did not receive the Public Hearing Notice.

Mr. Dowd replies it was delivered, it was returned unopened. They had thirty days in which to respond, which they did.

Mr. Sewitt replies what they are asking is to be able to respond further because part of what they wanted to review they had to FOIL, and I guess they were looking at big plans and it took them a little bit of time to get.

Mr. Dowd adds it cost them about \$250. for them to get copies of all the plans and paperwork. Their attorney is well aware of what his client's rights are to the extent of anything that they have that John believes is relevant that you should be informed of, or change of plans, I think that that's more than appropriate.

Mr. Russo adds they submitted about five pages of comments; we also have a response letter for the project engineer, who went through every comment and responded back to it also. Some of it he noted that they will address, other things that we looked at, what TRC responded to, and from what we can see some of the stuff that they were looking at was old and out dated and has already been addressed. There are other points that they raised that we think are valid points, and yes they should be looked at. The project engineer is a little bit upset by this and at this point he says that he's not making any changes because if they're going to have more comments he's going to need to make more changes with more comments forthcoming. That he'll make changes once he has all comments in hand. Some of the things I thought were valid, I brought more to light in my comment letter, and other things that I didn't think were valid I didn't. It appears that some of the information that they had was on older documents.

Chair member Danzeisen asks between the two of them what do you think would be a reasonable time period for them to respond.

Mr. Russo states there are really two things holding us up. The Army Corp and the easement.

Mr. Sewitt replies the Army Corp will come through. It's a question of time. I know that the forty-five day they promised our expert and that clock started ticking, according to them, not too long ago. I think we'll get an answer before the next meeting and I'm quite confident that it will be a nationwide permit. And everything that we said we'd get and that you're expecting us to get. The thing with the easement is very interesting. The easement was designed as a contingency plan, way back when, when everything was put on hold with Sewer District No 1 because of lawsuits from KJ about capacity and who has the right to go in and not go in. The Town of Woodbury, at the time, Sheila Conroy, was the Planning Board Chair member, decided in order to let the project go forward the adjacent lot, B14, would be a package sewer plant, they would be able to run piping to it part of which goes through Mr. Peck's property as a contingency to be able to have sewer capacity and that's the way it would work. It never happened that way, they are in Sewer District No 1, and lot 14 is available for development, so a package plant will never go on that. From where Woodbury Center is to Lot B13 there is no piping that was ever run and it will never will be run. And here is the problem; there are two property owners for that property now.

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**

**Regular Meeting**

**October 19, 2015**

**Page 3**

*Kimco Reality has the rights to release the easement; they've been notified and given all the proper paperwork. I'm quite certain they will do that, it's a question of another week or so. The other adjacent property owner is not going to relinquish that right. How long are we going to be held to task for that if we get no cooperation there. We know that it is something that will never, ever be used. I am 100 % certain that no one is going to pull out of Sewer District No1 to create a private package plant and run all of that piping. It would have to be put in under Route 6. It's really a very strange situation to be put in. It was such a non-event that is why it was never dealt with way back when, when it should have been. Our lot would be the last parcel to connect in the package plant.*

*Discussion broke out regarding Woodbury/Harriman property lines.*

*Member Escallier asks if part of the property on Lot 14 is on Woodbury soil. The reason I'm asking is that TRC is talking about conditions of final sub divisional approval. Which I think that John asked you to supply to us. This is when the ICC subdivision was approved in 1989/90 there were conditions imposed by the lead agency that govern individual site plan building approvals. The conditions are included in sheet SP-1B of the filed map thus TRC requests that the applicant addressed have the application complies with the referenced provisions which includes signage use issues ie noise, minimizing sight vegetation of 65.7%, secondary means of access, landscaping requirements, visual consideration, architecture and screening requirement. The reason I'm asking you about whether the jurisdiction falls in Woodbury is that we have to decide governed partially on what Woodbury decided and if it's apart from us, then we're okay. But if not then we have to look at it. And that's why John asked for that to be seen.*

*Mr. Sewitt explains that when you drive in to Commerce Drive the left side, that's Woodbury, and even parts of that are split up.*

*Mr. Russo states that it's comment #4 in his letter.*

*Mr. Sewitt adds I'm aware of that and that's obviously something that we are going to look in to. I believe that the Woodbury Center, all of those approvals were done in Woodbury. Anything that's on the southern side of South Commerce Drive falls under Harriman's jurisdiction.*

*Mr. Dowd states the point that was being made was this whole thing was ICC. So therefore the architectural system was agreed upon by Woodbury and Harriman. It's very possible that we have it in our own files, ICC in Harriman would have these conditions that this letter is speaking about, and certainly Woodbury would have it. One of the questions the lawyer asked me about was the architectural on Mr. Peck's project. He didn't have any. They submitted pictures of what this was going to look like, months ago, when it's finished, it's in the file. He hasn't seen that and he's wondering if it's going to fit in with the architectural standards that the whole development both in Woodbury and Harriman had agreed to in 1989/90.*

*Mr. Sewitt states the thing that's interesting is that some of it can be built as a residential area, which is where the Caesar's Casino was going to be built, that's being looked at as like a transient village and both Harriman, Woodbury and Monroe are involved with that. This is an industrial park and I don't know if this falls in to the same criteria as Site A and C. Site B may have different criteria. I also know because I've spoken to the Army Corp, I've spoken to the actual engineers that were involved at that time as well. I guess the way things were laid out didn't sit well with the Army Corp and they're very upset with whoever did that. Although I like Nick, know Nick and have worked with him in the past; I don't think there are good feelings between him and the Army Corp. We are caught in the middle of all this.*

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**

**Regular Meeting**

**October 19, 2015**

**Page 4**

*We just want to build this storage facility, give you revenue, let Allen see a return on his property.*

*Mr. Dowd states one of the comments that TRC has made and John is questioning is that we don't want to give approval for a building that doesn't meet the standards that were imposed back in 1990 on the entire complex, if that in fact is the case. We're assuming that they weren't changed over time.*

*Mr. Russo states if there are deed restrictions, we want to copy the deed and then reference to it.*

*Mr. Dowd states we want to make sure that the approval for Allen's project conforms with and doesn't put him in immediate conflict with the overall scheme.*

*Mr. Sewitt adds we don't want to do anything that may provoke an Article 78. The height restriction is your height restriction of 50' and we are complying with that.*

*Mr. Dowd replies he is a property owner right next to yours, he owns the hotel, so he certainly has the standing that if you were to get an approval to build this project and it's in violation with the architectural construction standards that were approved in 1990 for the entire park.*

*Discussion broke out.*

*Mr. Sewitt continues we're going to look in to what the restrictions are. Another concern is the spillage of lighting from one property to another and how that's being controlled. I spoke with the engineer today and they are definitely meeting the criteria for that, so that's not an issue. The other issue is that nobody has the right to have runoff from one property to another, and I believe the way this is designed it more than adequately prevents that. Those are valid concerns from an adjoining property owner. Where it makes sense, we will respond, but my question is how long are they going to be able to keep making changes. What I'm afraid of is when they review this now that they have their FOILED materials how many comments are they going to be making*

*Chair member Danzeisen responds if the material is handed in to the Planning Board two weeks prior to the meeting, it is presented to the Board. If it isn't, then it's reviewed at the following meeting.*

*Mr. Dowd states I would not suggest that you respond to them like you did this time. Although it was helpful this time, I'm afraid you're running up the bill for Allen that maybe he can avoid and focus on the items that John thinks are appropriate.*

*Mr. Sewitt adds my only other question is when Kimco vacates this easement and terminates it, which I'm sure they will, what happens if the adjoining property owner refuses to do that.*

*Mr. Dowd replies you can't force them to do it. We have asked you to do it so that it would clean up your lot so that easement didn't encumber your lot. When there's an easement you're not supposed to build anything on it.*

*Mr. Russo adds there may have to be some design revisions on your plans in regard to any infrastructure that you have proposed underground in that area. Things may have to be revised so that in the event someone wanted to put a pipe through there, they could put a pipe through there. And more than likely this will never occur, especially now that everybody is going in to Orange County Sewer District No1 but if all of a sudden the person who owned Lot 14 decided to put a package plant there, and got approval to do it.*

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**

**Regular Meeting**

**October 19, 2015**

**Page 5**

*Mr. Sewitt states this is why I'm 110% sure that this is not going to happen. The map note also states Note 22 states that in the event that the sewer goes to a municipal facility, like Orange County Sewer District No 1, Lot 14 will revert back to a developable lot. That's SP22.*

*Mr. Russo reads this SP22.*

*Mr. Sewitt adds the Lot 14 reverts back to a developable lot, not that the easement was extinguished. But when I spoke with Sheila Conroy she said she forgot to relinquish the easement.*

*Discussion broke out.*

*Member Escallier states that I noticed on the site plan was incomplete in the portion that shows the signage. There's only a frontal view of the whole building with the signage square footage in total, there's no details in the sign as far as the size of the letters, or the illumination, there's no detail either. That has to be part of the site plan.*

*Mr. Sewitt responds absolutely. From what I understand there wasn't going to be signage on any other part of the building. It will all be in the front. More detail will be provided. I will look over any restrictions that were left over from the original plan.*

**AMERICAN FENCE COMPANY**

**108-1-2**

**SITE PLAN APPROVAL**

**Present: No one**

*Chair member Danzeisen asks if there is anyone present, and there is not.*

*Mr. Russo states that maybe it's assumed by American Fence that they can construct a fence since the State is requiring it. It's part of the remediation of that site to protect.*

*Mr. Dowd adds the issue would be that you can't put a 6' fence in the front yard. However, when you have a remedial site and you want to protect the public from wandering in there, are you going to send them to the Zoning Board of Appeals?*

*Chairman Danzeisen added that when he drove past it there were pieces lying down on the ground. This is probably going to be a Code Enforcement Office issue.*

*Mr. Russo adds I was going to ask them about the upkeep of the fence. I saw parts of the fence without the green mesh so you could see through the fence.*

*Chair member Danzeisen asks if there are any other issues.*

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**

**Regular Meeting**

**October 19, 2015**

**Page 6**

*Mr. Haupt comments I have a violation issued by Ron Walker regarding a sign on 22 Maple Ave. There is a New York State Retail dealer sign that is hung next to the inspection sign and repair sign. It is exactly the same size, same shape, almost the same writing.*

*Mr. Dowd asks to see the violation notice. Retail sales of motor vehicles are not allowed in R50 zone. Why are you here?*

*Mr. Haupt explains I asked Ron Walker how do I pursue this. In my opinion I'm running an automobile business as I always have. In the eyes of the state I am doing nothing wrong, nothing illegal. If you can fix a car, you can sell a car to one of your customers. I don't display vehicles outside. I may sell half a dozen cars a year on the internet or to an existing customer. The cars are inside, there's no addition to anything that I've done in the past. He suggested that I go see the Planning Board.*

*Mr. Dowd states what this sounds like to me is that it's a residential zone, so your repair garage is a pre-existing, non-conforming use, which is allowed to continue, but when you add the sales of the automobiles which is also not allowed in a residential zone, that's the violation. It's not necessarily because of the sign is in violation but the sale of automobiles is. We cannot give you an approval. You would have to go the Zoning Board of Appeals. The only way you can appeal a violation notice to stop the enforcement and to get relief from this would be the Zoning Board. There's a use called Retail Sale of Automobiles or Retail Sale of used Automobiles that's a specifically defined use in the Code in certain zones. You have a pre-existing non-conforming business, it's been going on forever, and you're allowed to continue to operate it but now is you're going to start "expanding" that use to include sales.*

*Mr. Haupt is told when the next Zoning Board of Appeals meeting is and where he can obtain the application, and the deadline for application.*

*There being no further business, **MOTION** was made by Member Escallier to adjourn the Regular Planning Board meeting at 8:40pm. Seconded by Member Klare. All in favor.*

Respectfully Submitted:

  
Barbara Singer, Recording Secretary