VILLAGE OF HARRIMAN PLANNING BOARD MEETING
Regular Meeting
April 17, 2017

Chairwoman Escallier opened the Village of Harriman Regular Meeting of April 17, 2017 at 7:30pm.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: Chairwoman Irma Escallier, Board Members Martin Stanise, Ron Klare, Michael Zwarycz; Kevin Dowd, Attorney, John Russo, Engineer, John Hager, Building Inspector and Barbara Singer, Recording Secretary.

Absent: Board Member Juan Quinones

The Gardens at Harriman Station
108-1-5.1, 108-1-5.2, 108-1-5.3
Site Plan

Present: Steve Esposito, Engineer; Neil Gold, Developer; Howard Geneslaw, Attorney, Gibbons, PC.

Mr. Esposito: I am going to spend a little time on the history of the site, how we got here today via the Village of Woodbury. Most everybody is familiar with this parcel, it goes back to Site A, an ICC project from the late 80’s. This site is 130 acres; it’s in three municipalities, the Village of Woodbury, Village of Harriman and the Town of Monroe. The 12.6 acres on the North side is in the Village of Harriman, 5 acres on the West is the Town of Monroe, there is no building being proposed, and the remaining 112 acres is in the Village of Woodbury. The Southern portion of the site is the Harriman train station. In 1988 this site received subdivision approval of 1.4 million square feet of mixed industrial/commercial and 52,000 square feet of retail. The project never went ahead, the other two projects did. When the ICC was approved there was a sewer moratorium at the Harriman plant and part of that approval was to design and construct a waste water treatment plant to service site A, B, & C. That permit was issued: the site that the plant was going to be built on is in Site B, which is up the road and that parcel has been sold. The SPEDES permit that was issued by the DEC for that plant has expired. Also part of that original development was the Inter-Municipal Water Agreement. This was an agreement between the developer and the Village of Harriman to provide water with certain conditions that the developer has to meet in order to acquire the water, capital improvements. Certain standards that have to be met as part of that agreement. We, the representatives for The Gardens at Harriman Station, have met with the Mayor over the agreement that we have with working with the hydrogeologist, Leggette, Brashears, & Graham, in developing additional water sources on site. On the original approval well OR1 was permitted by the DEC for water taking, it was never connected to the system because the site had never been built. In a more recent application, when we represented Caesars, a well was drilled that we call Caesar Well 1 which is another bedrock well, and since then working with Leggette, Brashears & Graham, have been developing a separate source which is a sand and gravel well. These are all 100gpm wells. We have two deep wells and one gravel well and we are in the process of testing these and when the tests are done the data will be part of the draft environment impact statement. In the Lanc & Tully letter, after 1980/89 approvals, in 2004/2005 the County did a traffic/land use study which a lot of stake holders were involved, Village of Harriman, Village of Monroe, Town of Monroe, Village of Woodbury, Town of Woodbury to look at the 32 corridor and what could be done as far as land use planning to manage traffic and from that came the Harriman Train Station case study. RPA was hired by the County Planning Dept in conjunction with the same stake holder that was involved with the original land use plan. They developed this
case study which included this parcel, the Nepera parcel to be looked at to be called the transportation oriented development. It's a strategy of development that you develop around existing mass transit and this happens to be the only site in town that has a train station so the case study really designed criteria how to approach developing the zoning that is necessary to implement that type of plan. In 2011 when the Town of Woodbury converted to the Village of Woodbury, they had to redo their comprehensive plan that study was incorporated in the transit plan zoning district was adopted by the Village of Woodbury. We have been involved with this project since 1988 but we have been in contact with the MTA, very successful meeting. We think that we and the MTA have the same mutual interests. We want to have the best access that we can get to the train station; we want to maximize the concept of a TOD by promoting mass transit, getting people out of a car and into a train. The MTA would like to see the ridership of the Port Jervis line increase. We estimate that just our Woodbury develop would provide 600 additional riders and adding on to Harriman would increase that number and we think building there would be insurably uses that would also most likely use the train. That's a big thing for us, MTA and the County. If we can increase ridership, they would be willing to spend more money on the Port Jervis line, it's critical to have that happen, make service much more available to commuters. In the concept plan we have also spoke about land swap. We think it's a better plan if we make our center, our core, developed right around the train. The train station being the heart of that community. We're working on that and we are advancing our plan, in Woodbury and Harriman, of our concept plan. We have talked to our neighbor to the East, not to great success. Also the West is where the Heritage Trail is, we would like to possibly extend that to this site so somebody could come from the city on the weekend and ride a bike, spend some money in Orange County, ride a bike back to the train and go home. We also talked to the NY/NJ Trail Commission right across the street from the existing access to the train station is the Sapphire Trail which can take you to the Harriman State Park and not too far from the Appalachian Trail so there's a real synergy there and promoting these resources. The TOD zone in the Village of Woodbury has the core, which is a half mile distance radius around the platform and that's where they promote higher densities, its 25 units to the acre and it also promotes mixed use which is what the market will bear. Within the core area we are proposing approximately 1400± units and mixed use of about 250,000 square feet of mixed commercial, could be office, professional offices, entertainment, restaurants, and service businesses. A nice pallet of business that could go into there to support the transportation orientation development (TOD). Outside of the core area, the North area, density is 10 units per acre. It's about 1000 units in the core area and about 350 units in the North area and most of those would be some sort of townhouse and in the bigger boxes (in the diagram) would be rental units. Most of the parking in the project is garage under parking in the larger buildings and some street parking because that's part of the idea of the village. Most of the townhomes will have two car garages with their own private driveway where you can park a couple more cars. In the center of the site are regulated wetlands, regulated by both the DEC and the Army Corp of Engineers. We have had a pre submission conference with the DEC to go over this particular plan and the series of permits that we will be obligated to get and we would like to incorporate pathways, boardwalks through the wetlands. We think there's an opportunity to provide a small building that can be used by educators to bring classes to the wetlands. We are proposing to service each of the areas with a clubhouse, pools. One of the things that we have to do with the design criteria for the DOT is the North/South road which we call the spine road, along it we have turn arounds and traffic circles. A couple of key things about the Village of Woodbury's code also are that 20% of all of the residential units have to be affordable and 50% have to be two bedrooms or less. In most of the core are there will be two bedrooms, one bedroom, and flats. In the North section, the townhouse section, it will be 2-3 bedrooms. There are about 10 single family lots, probably modest 3 bedroom ranches. The bedrooms are regulated by the code. In the Village of Harriman's 12.6 acres, is zoned PAD. Your code has very little restraints, it says that you take 80% of the gross, and mathematically you come up with a number based on certain square footages based on unit type to get the maximum number. In our case, our maximum number provided by code is 146 units; we are between 125 and 130 units right now. The 12.6 acres in Harriman is eligible for sewer and water, the 112 acres is not in any sewer district, we have no desire to petition the County to extend their service to the site. We are committed and have discussed this with the DEC to build an onsite treatment plant which will generate approximately 340,000 gallons per day. The treatment plant will be away from Rt17, we have discussed the location and the design perimeters with the DEC. Right now, evaluating this particular plant for storm water management, it's a very impervious surface; it's very dense so there's a big need to analyze that. One reason is to make sure that we have room for it
and Leggette, Brashears & Graham are very interested conceptually in proposing our storm water to make sure that our ground water resources don’t get contaminated in the future. Also the types, means and methods that we are contemplating in terms of water quality treatment, that’s being studied right now. We may applicate this part of the transit orient zoning district in Woodbury, the first thing we have to do is submit the concept plan. The Board had to make a ruling that we meet the goals and objectives of the case study and comprehensive plan. In the first meeting in December, they made that determination and from there, we advanced the plans to the point where we could make site plan applications which included the long EAF parts 1, 2, 3 and also the constraints analysis. As part of the Woodbury zone, what we had to do is deduct from our gross acreage, 112, the wetlands, the percentage of steep slopes, to get a net buildable acreage and that is really what determines. Your code you have to deduct 20% right off the top, where we have to deduct wetlands and other restraints to get to that net acreage. And that’s how mathematically we got to 1418 units. That’s all been reviewed by the Village so far. As part of our application to both you and the Village of Woodbury we also prepared a draft scoping outline, under SEQR it’s the responsibility of the applicant to submit that to the lead agency for their review and public comment and ultimately that will be the table of contents for the draft environmental impact statement. The Village of Woodbury declared their intent to be lead agency.

Mr. Dowd: When was that?

Mr. Esposito: That was 27 days ago. When this project was approved, the ICC was in multiple municipalities, it was determined that the Town of Woodbury would lead agency because the majority of the application was in that municipality, which is consistent with SEQR regulations and guidelines. In 2004 there was another development organization in Woodbury Development LLC that brought back the 1989 plan, which couldn’t be built toady with the wetlands and storm water regulations. So we took the old plan, updated it to the current regulations, and submitted that applications to amend the subdivision plan that was already approved and filed. At the time we also included in that application, Monroe and Harriman. It was again determined that it would make sense for Woodbury to be lead agency but every Board would be fully involved in decision making and every municipality has their own site plan and subdivision approvals. So we submitted all of the papers that you have to the Village of Woodbury and they declared their intent to be lead agency. They sent out a notice of intent and that goes to all of the interested and involved agencies. The involved agencies here are primarily the DEC, DOT, Health Department, Harriman and Woodbury. Also in the more interested side would be Shippo, Fish & Wildlife, which are more advisory departments.

Mr. Dowd: I don’t believe this Board received a letter of intent.

Mr. Esposito: It was sent to the Village Board.

Mr. Russo: But not the Planning Board, Village Police.

Mr. Dowd: You said that 27 days ago they sent out the notice but this Board never received the notice and they certainly are an involved agency, we are part of the project.

Mr. Geneslaw: I saw that in some of the comments reports the Planning Board was listed in our scoping documents so I don’t know why the Village of Woodbury didn’t send it specifically to the Planning Board as opposed to the Mayor and Village Board.

Mr. Dowd: It certainly matters; you have a defect in your notice going out. This Board has the right to ask to be lead agency as does the Village Board. I don’t know when the Village Board received their notice of intent. They may have submitted a letter of response.

Mr. Esposito: We are on the Planning Board in Woodbury for Wednesday; the 30 day period is going to lapse. Obviously there’s a defect in the notice.
Mr. Geneslaw: Was there a concern or desire on this Planning Board’s part as far as lead agency maybe that would be a good thing to talk about now that we’re on the subject.

Mr. Dowd: I think we need to know exactly what you have planned for the Village of Harriman. I see the pictures, you talked about 146 units but is there any commercial development for Harriman or is it all residential?

Mr. Esposito: Right now, as is, 129 units, both townhouses and rentals. There are 4 rental building, two stories with 12 apartments per building with underneath parking and then balance of those would be townhouses. We are contemplating, in your code, I’m not sure if we meet the criteria to have any commercial, there are some pretty high thresholds. We contemplated just sewer and water for analysis purposes, 5000 square foot of what we call neighborhood landings: delis, newspaper stands. In the PAD there are some pretty big thresholds before you can start. Anything that goes in your zone has to be supportive, not a stand-alone business.

Mr. Russo: You also have to leave at least 20% of the gross area to be devoted to common open space, recreational uses, ball fields, basketball courts, golf courses, pools, wooded areas or picnic areas. We had our planner look at it and it doesn’t appear that this portion that’s being developed in Harriman complies with the code. We understand that this is conceptual.

Mr. Esposito: We understand that there are components of the code that all have to be met. As of right now in Woodbury, with the exception of finalizing the open space, we think this plan is as of right. We are not looking for any variances; we think it’s in our best interest to keep it as of right in Harriman’s and Woodbury’s zoning districts.

Mr. Russo: Under the dwelling types it also notes that at least 50% of all dwelling units can be a combination of detached or horizontally attached dwelling units, containing one dwelling unit each designed for single family occupancy. Do you comply with that? Before we can really tell what each unit is and looking at it without knowing everything, we are under the assumption that you’re not complying with all of these requirements.

Mr. Gold: There are two types of units in the proposed Harriman portion. One is attached townhouses with whatever the permitted density use is and the second use is three storied apartment buildings, which we call mansion apartments. This is basically designed for older people, some of whom will want to live in a two storied walk up and others who might want to live in an apartment. The apartments will be of the same quality, if not higher, than the townhouses. They will be between 1800 and 2000 square feet, roughly the same size as the townhouses. Those are the only two uses in that area. The mansion apartments would have four apartments on each floor, three stories, a total of 12 apartments with garage spaces underneath. These would be elevator buildings. That is what is intended residentially for that area, with your permission.

Mr. Russo: We have a lot of questions because the plans that you’re providing. It provides no analysis for Harriman. There’s a slope summary table for Woodbury but there are no breakdowns for Harriman.

Mr. Geneslaw: The PUD approaches it differently than the TOD does. We can provide them to you but that’s not condition to providing density. I think that in the concept plans, there is the Village of Woodbury; it breaks down the number of units, apartments, parking, and water usage. The water usage for units for the portion in Woodbury is about 30,000 gallons per day, sanitary is about 27,000 gallons per day. We add 10% over on the sanitary for purposes of irrigation or non-domestic use. That’s the breakdown for both Harriman and Woodbury. During the EIS portion all of the slopes will be analyzed and soil samples. That information was critical in establishing the net buildable acreage for Woodbury. Whereas we just deduct the 20% for Harriman.

Mr. Russo: You have about 5000 square feet of retail.
Mr. Dowd: So you're reading our regulations as saying that you take the 20% out and that's the gross number of units that you can have and you get 126. But yet in the beginning the regulations say it must contain 150 units or more. To my understanding after you take the 20% you still need to have 150 units otherwise you're not meeting the regulations.

Mr. Gold: If we put 150 units than we can't put any residential units there because we can't fit 150 units according to your code. Then we would need a variance. We couldn't meet the code with the land we have and the requirements that you have, the maximum density that you have, we couldn't do it. We are not trying to exceed what the land will hold; we are trying to do what fits, we also have storm water potential land there that we might use towards the 20%. It would not be completely filled so that when storms came the water could rise in level and absorb some of the water. That would be open space, beautifully landscaped. We have every intention of meeting the requirements of your code. We are just too early in the process to have done all this work yet.

Mr. Dowd: If that's the case then our ZBA becomes another involved agency. I understand that the plans are early but how do you do a DEIS and how do we look at the scoping document when the numbers don't match here as far as what you can and cannot hold on our parcel? Your scoping document doesn't really have anything to do with Harriman and the impact on Harriman.

Mr. Gold: You and I are unhappy with the fact that we have to include Harriman in this presentation but because SEQR rules we must include it. We would rather do Harriman as Harriman, but we are not allowed we have to do the whole thing together. This is in the process of being done we just don't have all of the answers, it's still very early.

Mr. Dowd: You said that on Wednesday you were supposed to have a scoping session. How is that document, we have had no input on it, we haven't even had a notice of intent, how are you going forward?

Mr. Geneslaw: The scoping document was submitted here to the Harriman Planning Board. I realize that the notice of intent, for whatever reason, wasn't sent by the Village of Woodbury. In turns of documents, you now have everything that we submitted to the Woodbury Planning Board and we are certainly interested in hearing any comments that you may have on them. As far as evaluating the project for SEQR purposes, and look at the scope, given there are some uncertainties, one way of going about this would be look at other alternatives. One alternative might be what you're looking at in the plan, another would be a variance.

Mr. Dowd: This is the first time that you've appeared before this Board. You are asking us to come up with what we want to look at as far as Harriman's part of the development is concerned, with so little notice, if we wanted to write to the Woodbury Planning Board, let them know want we to add this to your scope, we have no opportunity to do that.

Mr. Geneslaw: The scope isn't being finalized on Wed. What we expect to happen on Wed is that the Woodbury would declare itself lead agency, issue a certificate of determination, and we would start the scoping process which would certainly be the subject of further discussion so we can incorporate all of the issues and concerns that need to be addressed. We are just trying to start a discussion and get everyone focused on what we anticipate the issues are going to be given there is such a history on this project and we have the scope that was done for Caesars when that project came through so it seems many of the issues that were dealt with would need to be dealt with again. Obviously there are differences; Caesars didn't envision development in Harriman as we are proposing it was a different type of use but at least there's a starting point, we made some modifications and we thought it would be helpful given this is a large project and everyone is seeing it for the first time and it's much different than the casino project, at least putting it out there so people can start thinking about it. But there's no expectation that the scope gets finalized this Wed, certainly we need to have more discussion with you, Woodbury. There may be modifications to the draft that was initially submitted. It's really just a starting point to begin the discussion on. That's how it was intended.
Mr. Esposito: It is our responsibility to prepare the draft scope and we are purposely early. This Board is clearly identified as an involved agent. We assumed that Woodbury would ultimately become lead agency but every municipality would be directly involved in the process. The items that we identify for analysis for EIS are germane for both communities. They are specific to all communities, community services, physical impacts, impacts to police, fire, traffic; those are all germane issues for both municipalities. We think that Woodbury and Harriman are both addressed in that document. Your Board and consultants will have comments and those will be incorporated into the draft. Everybody comments, Woodbury and their consultants, Harriman, the public, will are be included in the final scope.

Mr. Dowd: With the assumption that the Village of Woodbury will be lead agency.

Mr. Esposito: Correct. But historically with this particular project that’s how it’s worked two other times.

Mr. Dowd: It may not be this Board, but maybe the Village Board because they are going to feel impacts. Water, sewer and traffic impacts so they may have some concerns. They may not want to be lead agency but possibly co-lead agency at some point. I think the discussion should be with the Village of Woodbury Planning Board attorneys I think that they need to re-notice or properly notice their intent. I know that’s going to delay you, but rather be delayed and do it right than to create an issue right from the beginning. That we didn’t get the adequate notice to respond to it. I don’t know if they want to be or not but to have the ability to take advantage of that 30 day period to analyze if they want to be lead agency or not, basically they have 3 days.

Mr. Esposito: I agree, one of the things that we’re concerned of moving forward on a solid foundation and for a whole host of reasons that we are all aware of. We can discuss this with the Village of Woodbury and get the notice straightened out. We did not realize that this board did not get notice.

Mr. Russo: You may also want to include the ZBA, you may need variances.

Discussion regarding the TOD Concept Plan booklet.

Mr. Dowd: If we’re not the lead agency then we have to wait until the SEQR process is done. Obviously we need to have the procedure set out, know where we are going with this and Obviously I think this Board is going to want to know where their Village Board is on this. There may be issues with water, sewer.

Mr. Russo: We have concerns, you know we have Nepera right next door and we know there were large plumes of contamination. Does it extend under the rail bed?

Mr. Gold: We have a study that shows in the top two acres in Harriman there are 12 sites where the mercury is between 2" and 4" in depth which we will remove entirely.

Mr. Esposito: We have that in our book, figures 1 & 2 Environmental, there’s a section in there for that because we added that for Caesars’ as well. Caesars spent a lot of time and money on that and so has The Gardens because that’s everybody’s concern. During the Caesar’s permitting we contacted Nepera’s professionals and we were granted access to their wells to monitor during testing and we will continue to do that. We did soil and water testing along the perimeters.

Mr. Russo: We just have concerns, you’re digging for foundations. You’re going to have storm water ponds in that area, what’s going to leech into those ponds.

Mr. Esposito: That particular issue will be well vetted because everybody is concerned about it. Particularly with the amount of dollars that we’re talking about here.
Mr. Dowd: How many phases do they think it's going to be to construct this? And where is Harriman on that phase structure?

Mr. Gold: Probably 7 years and we would like to start in Harriman right away. We can access, with your permission, public water and sewer. The first phase would have 2 elements, the first Harriman and then we would have to start the sewer treatment plant before we could do anything anywhere else. It's a huge infrastructure that cost around $40 million. We have the well, 525 gallons per minute, according to Tom Cusack, and the quality of the water is exceptionally fine. They were worried about salt infusion from the railroad but it doesn't exist.

Mr. Russo: The Village Board would need to be vetted regarding the water and sewer.

Mr. Gold: if we could get the 150 units or less, we wouldn't be using a great deal of capacity for the public sewer plant.

Mr. Russo: Have you looked at taking these 12 acres and putting them in your sewer?

Mr. Esposito: I don't know if that could be an alternative but it certainly could be added as an alternative.

Mr. Gold: The DEC had a problem with that.

Mr. Russo: That can be discussed as far as an alternative but meeting with DEC they had, if anyone questions it, yes it was looked at.

Mr. Dowd: Where is the sewer from the Woodbury parcel emptying out into?

Mr. Gold: The Ramapo, yes, it will first be treated; it will be pure water that comes out.

Mr. Russo: Who's preparing the traffic study? Did Woodbury hire Phil Greeley to review that?

Mr. Esposito: What used to be TRC is now Provident Design Engineering and Phil will be reviewing it. I've already had conversations with him on this.

Mr. Russo: I have a large concern with the entrance. It's right across from Grove, you have sight distances.

Mr. Esposito: One of the things that we're looking at is to get Grove St a signalized intersection, but we maybe rethinking that primarily because of the vertical curve. Ultimately our goal is to remove the bridge, enhance sight distances to the North and also look at alternative access points. We would put another pedestrian bridge in its place for the Heritage Trail. The main corridor, the North South collector, would be a public road. There will be hieroglyphy of roads. A lot of this design should also say its new urbanist design, with service alleys, street front, no garage doors. It will really have the pedestrian oriented sense of a Village.

Member Zwarycz: So that public road is going to be built even though there's no development in most of that area because you have Harriman scheduled for the first part of the development. What would be the access to the Harriman portion? Where would that road begin from?

Mr. Gold: That road has to be built through Harriman in order to make it possible to build houses there. The road, sewer and the water are essential.

Mr. Esposito: From somewhere we're going to have a main entrance through to access the Harriman parcel. There will be secondary roads to access those units. That would mostly likely be Phase 1 component, another road would be constructed in order to access the wells, the waste water treatment plant, and providing these
roads will give them the ability to start marketing those mixed use buildings. And the balance would be built as
the market demands. Whatever garbage services are available in either Village, we intend to take advantage of.
There will be clubhouses, pools, amenities will be offered for dedication otherwise they will be operated under a
home owners association with a maintenance agreement between both Villages.

Mr. Russo: In Woodbury you are in a water service area, but not a district. A district would need to be set up.

Mr. Esposito: Right now there's a water agreement between this parcel and the Village of Harriman. It may very
well be that Woodbury would have to form a district so that the Village of Harriman could go to the Village of
Woodbury and that's going to be detail that we will work out.

Mr. Russo: Is there going to be any subdivision?

Mr. Esposito: There will be mixed use building, where the first floor is commercial and above that is residential.
Others are apartment buildings; those will all be owned and operated by a management company. The
townhouses we see as fee simple, with a HOA. We have mansion apartments which look like a big house but
actually have 12 units in it. And underneath is ground under parking. The change in lineage of the roads between
Harriman and Woodbury would mean that the draftsmen didn't take the time to put the lines on there. There will
be sidewalks. There will be some on street parking, regulated on one side of the other. As we get on with this we
will have a meeting with the emergency services regarding the width of the roads and Harriman will be invited
also.

Member Stanise: Other than the main road, who's maintaining the roads?

Mr. Esposito: The alleys and private drives will be owned and operated by a HOA or a management company.

Mr. Russo: The memo that I gave you goes through some of the concerns that I have, things we want to
incorporate such as project phasing, fill analysis planning, storm water, traffic, grading, water supply, sewer
collection, off-site improvements, water score, road improvements, landscaping, open space, recreation, wetland
treatment packs. One of the plans shows a stream running through the Village of Harriman portion. There's one
road in there that travels west to east, in the Harriman area, the second entrance way, and it crosses the
municipal boundaries, so you are also going to have to talk about municipal agreements.

Mr. Esposito: It's a dry stream, intermittent. It's not classified. The right of ways for the main road is at 60'. I
defer to the traffic engineers for that but I believe the main roads are 32' wide, the others 30' and 26'. The new
urbanist design concept is really to make this like a Village, could be parking on one side, or both and any
parking on the street would be subject to the snow ordinances.

Mr. Gold: There will be sufficient parking off the street for every unit. This is really for visitors. It adds to the
vitality to have this on street parking.

Mr. Esposito: We have a center piece, a piazza. That will probably be in our earlier phases. There are probably
going to 7-8 phases. We're building a Village in 10 years, 5 years. This we think is a really important component
t the core, with its piazza, it will be very social, with a farmers market, performances, and hopefully generate a
sense of community. This community as well as the surrounding community will benefit from that component of
the project as well.
Right Choice Builders
101-2.1.12
Discussion
Present: David Niemotko, Architect

Mr. Niemotko: There's some clarification that was needed, perhaps we went to the ZBA premature. We need to review parts of the project that requires a variance. I'm looking for some direction from this Board.

Chairwoman Escallier: Some basic questions, do you have a list of people going in to rent? Any indication of what type of business or materials is going to be inside. Why is there a need for the 8 rollup doors?

Mr. Niemotko: No, it hasn't been advertised or publicized. This project is limited not only by zoning but by Building Code. We're classifying it as a storage use so it's going to prohibit any flammable, hazardous materials and that will be documented on the plans. The doors are needed for warehousing, to bring materials in, to store and then to bring back out. And there are eleven; eleven office suites that correspond to eleven warehouse spaces.

Member Zwarycz: That's not to say that one tenant could rent all eleven spots.

Mr. Niemotko: We're proposing eleven, I'm sure if the client got one tenant that was willing to take the whole space, absolutely. I broke it down to eleven as per conversations that I've had with them and what I feel is applicable with the Building Code. I'm thinking about how the building will be classified with the Building Code.

Chairwoman Escallier: I think that where you are you're beyond what the site can provide. In terms of the parking, eleven I think is too much. Even with four or five, the parking is going to be dubious.

Mr. Niemotko: We did provide some calculations and guideline according to the Zoning Code. The B2 use in a commercial storage use didn't have any parking requirements associated with it. We took a guess with the I zone and with the parking associated with that. Quite frankly, in a commercial space to have over 150 spaces is not needed at all. We're not requesting any off-site parking, the parking that we show on the plans, which is very small in comparison to what the Zoning Code requires, I think has less of an impact on the property. We are asking for 50 spaces of parking in addition to the trucks.

Mr. Dow: I wasn't here at the initial meeting that you presented, but last month we started discussing this and I think there's a very basic problem here and that's what is this use and how do you classify it? As I discussed with the Planning Board last month, it seems to me that you need an interpretation from the ZBA as to what this use is. The language of the B2, a special permit is commercial storage buildings for materials and motor vehicles only when in a completely enclosed structure and may only serve as an accessory use to a present permitted use on the same lot. The question is which is accessory to which? Is the office accessory to the storage area or is the storage area accessory to the office space. Just on the space the amount of commercial storage area is about twice as much as the office space. Typically, accessory uses are not larger in area than the principal use but more concerning is that it's not a warehouse. Commercial storage buildings are not warehouses because if you look at the I zone, in a permitted use, is a warehouse as its defined. This use by its very terminology is different from warehouse. A definition within the Code doesn't exist. But you can't assume that a commercial storage building is in fact a warehouse.

Mr. Niemotko: I'm not assuming anything but the definition of commercial storage in your zoning code it uses the words warehouse and storage. In the definitions in Chapter 140 under warehouse it calls for a commercial building, which is what we're asking for, used primarily for storage of raw materials, finished products for distribution or long term storage that is not open to the public. That almost epitomizes the area that we're talking about, the warehouse area. The commercial building aspect of it, in a commercial building, you have office. Item #2 in the B2 use is business, professional and industrial offices. Let's say its industrial offices, what we're
proposing in this building is eleven suites of offices, each suite would be directly corresponding to a warehouse space. Whoever was in that office, whatever they would be doing, they would be able to store the materials that they are ordering in that particular area that's allocated below for redistribution.

Mr. Dowd: You're using the word warehouse that each office has a warehouse but warehouses are not a permitted use in the B2 zone. It is in the I zone. This is why this needs to go to the ZBA for interpretation. The Village Board when they adopted their zoning law they have a designated definition and permitted use in the I zone for a warehouse. They do not have a corresponding warehouse use allowed anywhere in the B2. They have commercial storage building. We have to assume when the Village Board made that they were distinguishing between commercial storage building and a warehouse. Therefore this Board cannot make that interpretation; you would need to go to the Zoning Board. I would say that the warehouse is not listed here, therefore it's prohibited. You may need a use variance but if you can convince a commercial storage building for materials and motor vehicles, which seems to mean that you have to have both, doesn't fit the definition of a warehouse which says for raw materials or finished products for distribution. Until you get passed that his is an allowed use in the B2, with an interpretation that the Village Board intended mean that commercial storage buildings are in fact warehouses, we can't go anywhere with this. I know that you're there for other variances as well, height, parking, but until you get past that interpretation, a favorable interpretation that the Village Board meant a commercial storage building be a warehouse.

Mr. Niemotko: At the first Planning Board meeting when I presented we had some great dialogue, somehow we got to the ZBA, no complaints, presented the project to them. They entertained it, no problem. I would ask if the next procedure is to send us back the ZBA, which I anticipate it is, I believe there might be some letter of recommendation from you to them requesting certain things.

Mr. Dowd: We would refer them for an interpretation first. And then all of the variances that you have already applied for.

Chairwoman Escallier: I just want to say, next month is our 103rd anniversary of the Village of Harriman. The Village of Harriman was established as a service community. All you have to do is drive up and down the roads and you'll see that there are a lot of service oriented places, businesses that provide services to the community. You're proposing something that is not going to be a service to the community. I just want you to keep that in mind. It's a service oriented community, if you were telling me I'm going to put eight offices in and one is going to be for a lawyer, etc., it would be like an old mill, consistent with what the town is doing. In this case, it's not consistent with the makeup of the town. I just want to point that out. I have to worry about the fact that you're putting this property behind the car wash. I have a community that has 365 families and another one in front of it that has at least 200 families and this may be disruptive in this residential clustered town.

Mr. Niemotko: Of course I appreciate your thoughts; the land is located among a lot of commercial buildings. Did you have an opportunity to look at the presentation that I showed to the ZBA? I showed the sight distances to the cluster housing across the river, over 1000' away. I show pictures in the winter, you wouldn't be able to see this project 1000' away to the other residential area. From the street we showed a cross section, you're not even going to be able to see the building.

Mr. Dowd: This is what's going to be hinging at the ZBA. We don't make the Code up, we don't interpret the Code, and we don't enact the Code. If an applicant comes to us with a use that is permitted or specially permitted, your object whether we like it or not, is to process the application, look at the environmental impact but he has to get there first.

Mr. Niemotko: I presented to the Board and they were definitely listening to the project, they were entertaining it.
Mr. Hager: They set a Public Hearing, prematurely and without the referral, so I think they wanted the public’s input before they advanced on it.

Mr. Niemotko: I am in agreement with the process, please make the referral, we would like to get on their next meeting.

Mr. Russo: I noticed that we are referring you for an interpretation with the variances. If their interpretation is in favor your variance for the parking is going to have to change. You have a column, in the back, in the corner that’s impacting two spaces at least. Maneuvering out of one parking space, they will probably end up hitting a wall. There may also be impacts on how these vehicles maneuver. There may be additional columns which would impact more parking stall. As it’s presented you are asking for variances on parking, but as it’s presented there are additional spot on here that look like you’re presenting x number of spots, and it’s actually x minus. You have a retaining wall there also, so it’s a tight spot. Although it’s private, we still have to make sure the site works, the parking stalls work.

Mr. Niemotko: We would love to be in that phase of the design phase. I’m comfortable with the amount of spaces. If the Board objects to the fact that whatever period of time a van has to pull in to a loading dock and it impacts one space along side of it then maybe there’s some management plan that can be worked out within that space. If it’s something that you feel the Board is going to reject, then let us know in the referral and we can reduce the amount of spaces. In the maneuverability and management of loading dock space, overhead door and the two-three spaces associated with it, I am sure that they can manage accordingly to make it work. The interesting thing is the back parking lot incorporates some of the comments from the ZBA. The overhang is our design that goes back to the first Planning Board meeting. We had a discussion about maneuverability in the back, John and I had a meeting, and told the client this needs to be addressed. At a greater financial impact to them I proposed a second and third floor overhanging the ground floor so we could have this type of maneuverability in the back. They agreed, so it overhangs by 30’, the length of a truck, giving them better turning radius. With the grades I couldn’t make a drive through work. The FEMA line eliminates 33% of the property. It’s a constraint that we have to live with but 33000 square feet is unusable. On the back where there are parking spaces moved forward away from the building 5’, was a comment from the ZBA, it allowed us to provide additional exits from the building out to grade and it didn’t impact the parking. We’ll keep looking at the parking, incorporating the Boards review.

Mr. Hager: Kevin, the Code regarding the parking, since the storage is not specific in that zone, he’s backing in numbers out of the industrial zone but the way that I read the Code the Planning Board really needs to decide if that’s an agreeable way to calculate parking. The way that I read the Code it’s not going to be the ZBA that does that but the Planning Board decides if that’s the way you’re going to calculate parking. He’s still going to be deficient, so he’s still going to be asking for a variance.

Mr. Dowd: I think that the initial decision has to be made this Board look at the nearest comparable use and that’s how you come up with the parking spaces, and now you’re short so that’s why you’re going to the Zoning Board for the variance. I believe that was done in January.

Mr. Russo: Right now you can send them to the ZBA for an interpretation and if that’s favorable the building height variance, but until I know how those columns are going to lay out on the overhang. I can’t give a specific number. He went to the ZBA with the request of 100, I didn’t see that plan. This is the first time that I’ve seen this plan since it came back to the Planning Board. I can’t evaluate how many parking spaces he would need with these plans; there are columns that need to be added.

Mr. Dowd: It seems as though you may need to go the ZBA twice because we don’t have the information for the parking spaces for you to request a variance. We want to send you for what you need; we know that you need an
interpretation, height variance, and the number of stories but as far as the number of parking spaces, you may have to go back for that variance when you get further into the design of the building.

Discussion regarding the columns impact on parking spaces.
Mr. Russo: I think what he's asking is for the referral for the ZBA for an interpretation; height variance; number of stories variance and the 100 parking stall variance. If we find out through the Planning process that he needs more than he's going to have to go back.

Discussion broke out.

**MOTION** was made by Member Klare to close the meeting at 9:40pm.
**SECOND** was made by Member Stanise.

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Respectfully Submitted:

Barbara Singer, Recording Secretary