VILLAGE OF HARRIMAN PLANNING BOARD MEETING
Regular Meeting
August 28, 2017

Chairwoman Escallier opened the Village of Harriman Regular Meeting of August 28, 2017 at 7:30pm.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: Chairwoman Irma Escallier, Board Members, Ron Klare, Martin Stanise, Juan Quinones; Kevin Dowd, Attorney, David Higgins, Engineer, John Hager, Building Inspector and Barbara Singer, Recording Secretary.

Absent: Board Member Michael Zwarycz.

MOTION was made by Member Klare to accept the minutes of May 15, 2017.
SECOND was made by Member Quinones

AYE Member Escallier
Member Klare
Member Quinones

NAY: -0-

ABSTAIN Member Stanise.

TAMR VENTURES LLC
106-1-16
Subdivision

Present: Ross Winglovitz, Engineering & Surveying Properties.

Mr. Winglovitz: This is a four lot subdivision on a 1.4 acre parcel. We were here in July, part of the questions were about a potential dedication of right of way to the Village for a future T turnaround. We did meet with the Village at the Village Board meeting and the engineer’s office met with the DPW Superintendent and the Mayor to discuss the layout that we have. What we are proposing is to dedicate this approximately 50’ by 85’ area of land to the Village gratuitous dedication. We have drawn in the plans what kind of turnaround could be built there; we’re not proposing to build that. I understand that there are comments that talk about would we be willing to remove the trees and rough grade that area, my client is willing to agree to do that as long as it’s a stipulation of certificate of occupancy. They don’t want to bring a builder in there for no reason if a builder comes in for Lot 3 or Lot 4 whichever one comes first, there will have to be a stipulation that they will have to create that area.

Mr. Higgins: General Comments #1, approval will need to be acquired from the Orange County Sewer District for the proposed sewer service connections for Lots 1, 3, and 4. A written approval letter from the Orange County Sewer District shall be submitted to the Planning Board.

Mr. Winglovitz: We have no problem with this; we were just waiting to see how all of this played out with the turnaround and the grading. Once we revise the plans to address the comments, at the same time that we submit it back here, we’ll submit it to them for approval.

Mr. Higgins: #2, descriptions of the areas to be dedicated to the Village of Harriman shall be provided to the Planning Board attorney for review.

Mr. Winglovitz: No problem, we will do that subject to the condition of final approval.
Mr. Higgins: Plan comments Sheet 1, #1 that area to be conveyed to the Village of Harriman at the end of Kearney Avenue shall be monumented. Based upon the location of the existing and proposed driveways, and given that here is an existing pipe in the easterly corner, the plan should show the northern and southern corners of the rectangle to be monumented with a concrete monument.

Mr. Winglovitz: We don’t have a problem with that. We do ask, though, does the Village accept anything other than concrete monuments, to keep the cost down? Copper clad or an alternative that the Village has accepted in the past?

Mr. Higgins: I would have to check with John Russo or the Building Department, I don’t know if copper clad monuments are accepted in place of concrete. #2, the area to be conveyed to the Village of Harriman along Maple Avenue shall be monumented along the proposed right-of-way line with concrete monuments.

Chairwoman Escallier: The steps were to be removed. And that note should be made on the site plan.

Mr. Winglovitz: Yes, the steps were removed; they need to be removed from the plans.

Mr. Higgins: Comment #3, Based upon field observations, it would be preferable for Lots 1 & 2 to share a common driveway at the location of the existing driveway that currently services proposed Lot 1. As such, along with the ingress/egress easement for the driveway across Lot 2 in favor of Lot 1, a Maintenance Agreement should be prepared for common driveway area. The maintenance agreement shall be submitted to the Planning Board attorney for review.

Mr. Winglovitz: I will discuss that with my client, they are willing to do that. They are asking that we use this for a common driveway. We would have a driveway for Lot #1 and enter in off the side of the building. We’ll make that revision on the next plans. Just one existing driveway coming off Maple.

Mr. Higgins: Comment #4, a portion of the existing driveway that services Lot 1 runs outside the proposed easement in the westerly corner. Either the easement shall be revised to encompass the driveway, or the plans shall note that the driveway is to be relocated to be with the easement.

Mr. Winglovitz: There’s a little area here of existing driveway that we’ll revise that easement line so that it encompasses that.

Mr. Higgins: Parking calculation table shall be provided on the plan.

Mr. Winglovitz: We demonstrated that parking and we will provide calculations.

Mr. Higgins: The “legend” table shall be revised to reflect the setback lines, and remove the contour and index contour lines, as they are not shown on the plan.

Mr. Winglovitz: When we do a legend we do one for the entire plan set, so it doesn’t appear on each sheet. If you need us to do separate ones, then we can do that.

Mr. Higgins: As the concrete stair remains have been removed, the stairs and associated note shall be removed from the plan.

Mr. Winglovitz: No problem.

Mr. Higgins: A lot of the other comments are technical, related to the grading.
Mr. Winglovitz: One of the comments wants us to revise the grading sheet to reflect that change. Also the grading on Kearney Ave as we committed that we will do that grading, we will show that grading for the T turnaround so it will work in the future for the Village.

Mr. Higgins: It should be put on a note that it should be done prior to issuing a certificate of occupancy if the Board is agreeable to that condition.

Chairwoman Escallier: Is that where a snow plow would come in and turn around there?

Mr. Winglovitz: Correct.

Mr. Higgins: The next few comments have to do with the sizing of the water mains being noted on the plan, the water service for Lot 3, sewer lines, dimensions, labels. These are technical issues; do you want to go through them individually?

Mr. Winglovitz: No, there’s nothing here significant. With this revision there are improvements here that we proposed that we will no longer need. The pipe and the catch basin that was required for the driveways, we’ll do that revision as well. The retaining wall for Lot #1, we’re going to revise that a little bit, I think with the revision of the driveway access, we’re going to reduce that retaining wall as much as possible. We will provide you with the details. This is probably 500’ from the municipal boundaries and it’s a County road so we need a 239 referral. This is an Unlisted Action with SEQRA so we can do Lead Agency and SEQRA action at the time of the Public Hearing. If the Board is okay with this plan we would ask if you would set the Public Hearing for next month.

**MOTION** was made by Member Quinones to have a Public Hearing on September 18, 2017 at 7:30pm

**SECOND** was made by Member Stanise

**AYE** Member Escallier
Member Klare
Member Quinones
Member Stanise

**NAY:** -0-

**MOTION** was made by Member Klare to establish the Planning Board as Lead Agency under SEQRA as an Unlisted Action.

**SECOND** was made by Member Stanise

**AYE** Member Escallier
Member Klare
Member Quinones
Member Stanise

**NAY:** -0-

**PL GROUP**

108-1-11

**Amended Site Plan Use**

**Present:** Allen Peck, Owner; Amanda Dana, Orange County Partners

Chairwoman Escallier: Next on the agenda, PL Group, an I zone district, the Inter Change Commerce Center, located at 8 Commerce Drive South, Harriman.

Mr. Peck: Thank you, the purpose of my visit is to give you an update as to where we are. Unfortunately it took us about a year to get a written estimate of the taxes from the Town of Woodbury; and that was for the bank. There
were a number of banks that were trying to finance the project, including the SBA and all of their underwritings wanted to have this written estimate of the taxes. Finally I asked them to give me a written statement as to why they’re not going to give me the tax number or give it to me and how you calculate that. Finally I got something in writing after 12-15 months to get that information. I then gave that to all of the financial institutions all of which have turned us down. The tax estimate that we got was $257,000 to start and that number would continue to change because the calculation was based on income. They valued the property based on a multiple of whatever the income is and so there wasn’t enough income in the project from the rent to pay the bank, taxes, running the operation. I went back to the tax people and said why can’t you do an assessment on the cost of the building, like every other project? They replied they had three choices and they were choosing to do it this way. I said if I don’t have enough money to pay your taxes and I raise my rates then you raise your taxes, is that correct? They said yes. You can’t run a business like that and the financial institutions all 6 of them and the SBA have considered this an abuse. It’s destined for failure. The Town of Woodbury is saying to me that I should sue them, take it to court. I said I can’t take it to court until I build the building, get the taxes and then I can try to deal with that issue. But I can’t get off the dime with the situation because you don’t want us to exist. That’s it, we’re not doing anything and the response that I got in writing was I guess that means you’re not doing the project. I sent you copies of my information going to them and getting from them so you see what’s going on there. That leaves me with two options, (1) sell it to a nonprofit, take it off the tax rolls all together, and let them do some kind of storage and let them eliminate all taxes or (2) use the property and site plan as it is and lease it or sell it to a corporate entity. We have some interested parties, one of which was brought to us by the County. It is an organization that is in Orange County now, has outgrown their space, and is looking for a world headquarters central location. We’re talking to them now, they haven’t figured out what size building they need. They think that they don’t need a building this size. From my last conversation I suggested that they’re growing so fast and they think they need 60,000 or so square feet, leave the top floor as an attic, so you don’t have to move out, we just put the floor on, don’t finish anything, it remains an attic until you need it. Because the way they’re growing, in 5 years they’ll be out of here. This will give them a location that they can grow into. The chairman of the board liked that idea and they’re thinking about it, as long as it doesn’t cost too much money. They will need a lot of parking spaces, at least 130 spaces. We have 77 spaces on the site. We can put 63 spaces under the building. We have enough additional height so we could raise that ground floor instead of filling in the foundation at the parking lot elevation which is 521.5’, bring that straight in to the building, have parking in there and still have enough height because the maximum height is 42’, the way we have it. We can go to 50’ and add that to the garage height and we will have enough. We don’t want to do anything until we have a definitive answer from the company. The purpose of my visitation today is to share all of this information with you and request an extension because they’re not going to know what they actually need until the end of September. Our anniversary date is in October and I can’t tell you know how much of an extension that I need. We are going to pursue those paths to make something happen on this site. We cleared the property, the silt fence is in, it’s been inspected, we have the construction fence, we are maintaining the property. We just don’t know where we’re going. I’m sharing that with you as soon as we have a definitive answer from the corporate world and we already have a bulk approval on the table that includes anything is approved that is a permitted use in this district. These tenants fit into that category. We’re not going to need any special anything because it’s already approved in the I district. Amanda Dana has helped us with these potential corporate tenants.

Mr. Dowd: Is this going to be office space?

Mr. Peck: It’s going to be office with research and development. (R & D)

Ms. Dana: It’s an R & D facility with corporate headquarters, class A office space.

Member Stanise: Was the main problem the taxes? They can’t be appealed?

Mr. Peck: Yes, the taxes.
Ms. Dana: The only thing that I can tell you is that when you pull the assessments on that subdivision, for an industrial use, this building would have to be consistent with what’s going on in that subdivision; which is substantially less than the revenue model that they’re using now to base the taxes on. In theory, these taxes will be lower based on what’s going on around them, whether it’s Takasago, Martin Brower, they are all paying substantially less price per square foot. You can’t advise a township how to tax but I can say based on the calculations of the other end users that this would be substantially lower but who can say that definitely?

Mr. Peck: Unfortunately Harriman can’t do anything; they are a victim, the same way that I am of the assessor of the Town of Woodbury. The Mayor says they are only getting 30% of the taxes, 70% goes to the school. They missed the point. You can’t create a number that is a variable number and it constantly goes up as your income goes up so you’re chasing the envelope trying to make your nut and you can never catch it. Because the more you make, the higher your taxes go. It’s starting at $257,000 and it’s going to end up over $500,000, and you can’t exist. So the opinion that I got from 6 major underwriting companies from major banks and the SBA Underwriting say that if I do this I’m destined for failure, so we are not going to finance that. Hopefully we can keep it on the tax rolls and make it happen with this corporate entity and we can make adjustments in the building as soon as they know what they want, we’ll meet with my architect and make some adjustments to meet their needs and hopefully we can make a deal. If we can’t, we do it as is, and we have to sell it to a nonprofit, and I don’t like that option. If there’s anything that you know that you may be able to do, I welcome the help.

Mr. Dowd: What you’re saying is that they’re pressing you out of the market before you even get into the market. So you’re being burdened financially because you went through this process of getting this building approved and you can’t build it because of taxes. There may be some way of persuading the assessor with legal aid to try to convince them that discretion being better part of valor.

Mr. Peck: Yes. They told me that I should sue them.

Ms. Dana: I think a good problem to be had is one of the strategies is to have an end user willing and able to build, create jobs, to become part of that subdivision and with this package in mind go to them and say we have to know what to anticipate from a tax perception. What you’re saying is that you can’t even start building.

Mr. Peck: I can’t get financing. I can build a foundation if I want to pay for them out of my pocket. But then I can’t finish the project.

Mr. Higgins: I think that you’re saying that the project may vary depending on the use. You may wind up changing the use in the next few months depending upon what happens with the possible tenants.

Mr. Peck: Yes, they claim that they are going to know what they’re going to do by the end of September.

Mr. Dowd: So what you need from the Board tonight is an extension of your conditional final?

Mr. Peck: Yes.

Mr. Dowd: This Board can decide if you want to give him 90 days, 6 months, and he would have to come back to you for an additional extension if need be. He has certainly run into a rather unusual situation here and after the years that we’ve spent with him getting his project to the point of where it is now, it would seem to be a shame to let it die on the vine especially if he has a possibility of finding an end user for the project. It is at the discretion of the Board how many extensions could be granted, as long as they feel you’re making progress on finding an end user and building the building and doing the project. Six months is usually an adequate time to figure out what you’re going to do. If you have an end user and you come back to this Board and get an amended site plan for a new user, they will give you another approval that will continue on, past the six months. If you want to build
because you have an end user, I doubt that they’re not going to give you another extension to get into the building portion. This is a way for the Board to keep an eye on what’s going on and not see this project to lay dormant.

**MOTION** was made by Member Stanise to grant a six month extension commencing at the expiration of the first approval.

**SECOND** was made by Member Klare

**AYE**  Member Escallier

Member Klare

Member Quinones

Member Stanise

**NAY:**  -0-

**VILLAGE VIEW ESTATES**

101-1-1.31

**Site Plan**

**Present:** Jay Myrow, Blustein, Shapiro, Rich & Barone, LLP; Ryan Nasher, Atzl, Nasher, Zigler, PC; Phil Greeley, Consultant; Rosemarie Pollati, New Line Reality.

Mr. Myrow: Since we were here the last time, we did visit with the Village Board about the roads being dedicated, about maintenance of the entry way coming in off the Town of Monroe, about the drainage district, all of those were positively received by the Village Board. We are back here now with what we feel is the final reiteration of the project shown on the plan.

Mr. Nasher: A little background on the project, it was before the Planning Board several times. We have a Negative Declaration in place that we received in 2007. The reason that we are here now is because from the time between now and 2007 the plan has changed. It’s not a drastic change. The changes are the access that we had on Dry Hill Road, no one really liked that access because of the water flow and the bridge. We received numerous comments from the public and the drainage mitigation that we have with the pond so what we did came back in with the drainage and also the access to Overlook Rd. The plan that we have now is really a compromise with the current regulations for the DEC mandates and it’s a much better layout then the previous one in terms of the access and one of the items was the Town of Monroe Highway Department which we received last year, we have it in place. What we are looking for today is the Negative Declaration that we have in place for the last ten years. We are looking for a new Negative Declaration and the reason is we need the permits for the multiple agencies; the Department of Conservation, the water and sewer and Orange County Planning.

Mr. Higgins: Was a revised EAF submitted that outlined the impacts associated with the current plan?

Mr. Greeley: Back in 2014 this plan was presented, we had a Public Hearing, and we went through the whole process. At the time I don’t think there was a request to get an amended/updated Neg Dec but this plan was part of the Public Hearing and then we were given, I think, in September 2014 a list of items to address. One of them being going to the Town of Monroe to get a permit for the connection to the town road, which we finally got last August. We’ve gone full circle; this is the plan that was in front of the Board in 2014 but now we’re going back for agency approvals. For example, with the Department of Transportation, they might say you have a Neg Dec from 2006; we really need to see that updated or reactivated; and the same with the other agencies. This plan hasn’t really changed except for the details and I know that there are comments from your office.

Mr. Dowd: We are not opposed to updating the Negative Declaration but I think we need to have some more recent documents which to base that Negative Declaration on, not just the plans and the discussion that we’ve had. I don’t see anything in my file, so I don’t think that there has been anything new. I was here for the Public Hearing and we went through that, we never anticipated that we would have to do this, but now you’re asking for an updated, we don’t have an updated SEQRA form or any kind of EAF. We’re going to need that to do what you
want us to do. Is that unreasonable? This predates me. I can only tell you what’s happened since I’ve been here and I don’t have an updated EAF.

Mr. Myrow: We have a Neg Dec, so we could either give you something akin to a consistency statement. I don’t think that we have to start from scratch; which we might be doing if we had to submit a new EAF. But enough time has gone by certainly the Board wants to know that this plan and everything that was done under SEQRA is consistent in today’s set of circumstances. I would ask if we would be able to submit a consistency statement showing that there have been no significant changes to anything that would trigger any other environmental reviews.

Mr. Higgins: What might make sense is what we’ve done with other municipalities after times passes and plans evolve is a letter to the Board outlining all of the changes that were made presumably for the better. Eliminating certain environmental disturbances like working in the wetland corridor and outline what has changed and has been discussed with the Board, summarize it and submit it as a consistency with the original Negative Declaration which the Board can act on.

Mr. Myrow: I haven’t seen the original Neg Dec, I guess I’ll ask for it and we’ll all take a look at it. I hate to submit a whole new EAF because it puts us back like we’re starting from scratch, and that’s not where we are.

Mr. Higgins: I think for the DOT, that’s all that they need, it’s a reaffirmation.

Mr. Myrow: We’re pretty confident that we can give you a consistency statement that’s going to be satisfactory to your engineers, professionals, and Board.

Mr. Dowd: A summary of the changes and if they’re consistent with the Negative Declaration.

Chairwoman Escallier: I want to go over the statements from Lanc & Tully first. In case there’s anything in here that’s going to pertain to that.

Mr. Nasher: The packet that you’re looking at, discussing the changes, is actually here.

Mr. Higgins: This is from June 2016. Everything in here is fully consistent with the current plan?

Mr. Nasher: Yes. With the exception of one of the comment responses, is stapled in the binder with the addendum regarding the DOT, the court documents.

Mr. Higgins: You have tables in here that compare the current plan with what was on the original plan that had the Neg Dec that was issued. Let’s go over the comments, general comments #1, it appears that traffic during construction will occur through the Town of Monroe and the adjacent residential area, have any impacts of this construction traffic been considered? Will the residential streets support the size, weight, and/or turning movements of the construction vehicles?

Mr. Myrow: As part of our permit from the Town of Monroe, there are a series of conditions. We have to post a bond for the roadway. In that record, it references the recommendations that we had from our Sept 2014 letter, some clearing of vegetation in the right-of-way, some signage. It was all studied and addressed as part of our permit. A letter from the Town of Monroe Highway Department, dated August 10, 2016, has a list of conditions that are required to get that permit which include the posting of the bond. There are six conditions; your engineering office has a copy of this.
Mr. Higgins: We’ll take a look at that. With these mitigations, the roadway does accommodate the construction? And there’s a means with the bonds to restore any pavement that may be damaged?

Mr. Myrow: Correct.

Chairwoman Escallier: Did that study include the culverts?

Mr. Myrow: Yes.

Mr. Higgins: The applicant shall note status of agency approvals (NYSDOT, Orange County Sewer District, Army Corp of Engineers, etc.). All approvals from agencies shall be required prior to issuance of Final Approval.

Mr. Nasher: That’s why we are here requesting a new Negative Declaration so we can move forward and apply for a permit with the agencies.

Mr. Dowd: I want to make sure; I received an e-mail from Mr. Myrow this afternoon, in your cover letter to the Board, basically you are saying numerous times that a lot of these things will be done after Final Approval.

Mr. Myrow: Typically, Conditional Final Approvals.

Mr. Dowd: I want to make sure that we’re clear now; these approvals would be provided by the Board as conditions of Final Approval.

Mr. Myrow: Most of these agency approvals will occur after we receive conditional final.

Mr. Higgins: Correct, but you won’t get Final Approvals with signed site plans.

Mr. Myrow: We’ll get the approvals, submit them, review them, and when you’re satisfied, the approvals have been received and they’re stamped. I think it’s a little aggressive to make us have those approvals in hand; some of these agencies want to see the Conditional Final.

Mr. Nasher: Keep in mind we are in the MS4 region so we have to have the MS4 signed off before we can really start the project.

Mr. Dowd: The way that the Atzl, Nasher letter was written, it sounds as if in the responses to the previous comments from the engineer was that you would not provide us with those agency approvals until after Final Approval, not as a Conditional Final Approval.

Mr. Myrow: If you give us Conditional Final Approval one of those conditions will be submittal of approval from DOT.

Mr. Dowd: And you won’t get signed plans unless these conditions are met. I want to make sure because that is not what this letter says. The letter from Atzl, Nasher & Zigler. This makes a big difference.

Mr. Higgins: #3, although the applicant notes that documents will be provided after Final Approval, the documents requested (descriptions of all proposed easements including the access to the Kochouos and Kabinoff parcels) should be provided to the Planning Board prior to Final Approval being issued. I think this comes down to it being a condition of Final Approval.

Mr. Myrow: Yes.
Mr. Higgins: Legal documents with regards to a maintenance agreement between the Village and Town for the portion of the access road that lies within the Town of Monroe shall be provided prior to Final Approval of the project.

Mr. Myrow: I usually take the Conditional Final in writing and that’s my roadmap. It tells me all of the documents that I have to prepare, all the approval I have to submit.

Mr. Higgins: The applicant has stated that the Village agreed to take over the proposed storm water facility, and that a storm water district for the subdivision would be established. The applicant should note in that the status of the development of this district.

Mr. Myrow: The Village Board has agreed that we are going to form the improvement district. Are we giving open space?

Mr. Nasher: No, we give the engineering report for the drainage district. They are privately owned but the Village would take over the maintenance. They have to be dedicated to the Village.

Mr. Myrow: So we’ll dedicate any storm water facilities that are on a separate lot to the Village.

Mr. Higgins: Again, that would be a condition for Final Approval.

Mr. Dowd: The idea is that each one of the owners of the lots be paying into that district for maintenance costs.

Mr. Myrow: The district would be the entire parcel and the cost of maintaining would be assessed annually on the tax rolls. No general cost to the Village.

Chairwoman Escallier: When did you plan to apply to the Village for that?

Mr. Myrow: I’ve been in touch with Dave Darwin, Village Attorney that would be done very quickly. Typically, the district isn’t formed until this is conditionally finalized. You don’t want a drainage district on your books until it’s a done deal.

Mr. Dowd: That will be a condition of the Final Approval that the Village Board has to create the district.

Mr. Myrow: There’s a Public Hearing involved, it’s a 6 week process at the absolute latest and it always happens sooner than we are ready to file the map so I think I have that under control. Mr. Darwin had a question as to the mechanics of how we were going to do it, I didn’t get the answer yet, I’m waiting for a call back. The Village Board is absolutely on board with this.

Mr. Higgins: Comment #6, as previously noted, we recommend that the Planning Bard consider limiting the hours of operation for work at the site, so as not to impact the neighboring residents. The applicant is opposed to this, and disagrees with this action unless the Village was to amend its current code. Is that still the case? I think the hours of operation were from 7am to 9pm, Monday through Saturday.

Discussion broke out regarding the hours of operation.

Mr. Myrow: Let me work out new hours of operations, maybe 7am to 7pm, I’ll get back to you about that.

Mr. Higgins: The applicant is refusing to perform any further testing at the site at this time to determine if any rock may be encountered during construction, but does note that they will prepare a plan to deal with rock if it is encountered. If rock is encountered at the site that may require removal by means of blasting, I would recommend
the Planning Board require that the applicant return to the Planning Board with a proposed blasting plan for review. I think what’s being stated here is if there is blasting required, under SEQRA review, the Board can review the impacts.

Mr. Myrow: Does the Code require a permit?

Mr. Hager: You certainly can’t do the blasting without a permit. Blasting may be prohibited in the Village. I would need to check in to who issues the permit.

Chairwoman Escallier: Blasting could do structural damage to the homes and pool in Lexington hill.

Mr. Higgins: What is being said, is that you’re not doing any testing to determine what scope of bedrock you may have at the site that needs removal. If you do want to proceed, if the Board is willing to, without requiring boring to see what extent that the rock may be there, the Board may impose the requirement that if you do encounter rock to the point where you want to blast, you come back to the Board with a blasting plan that has pre blast surveys, seismic readings, protocol.

Mr. Myrow: I would suggest that instead of coming back to the Planning Board, find out who does the permitting to require us to get the permit from them and to also have us submit the plan to the Village’s Planning Board engineer for their reviews and signoffs. I’m not sure why we would have to come back to this Board. If there’s going to be a permitting agency, why don’t we just go to them?

Mr. Dowd: The problem here is that your applicant is refusing to do the test boring. If they did the test borings and verify there is no need for a blasting permit, then this isn’t an issue. If they do find there is, then we can address it.

Mr. Nasher: One of the challenges is the access to the site because it is a heavily wooded area. We did a test hole the beginning of this year and we had a really hard time with the access. The access is the challenge. We did the deep test hole and we didn’t hit any bedrock, there was none. To the best of my knowledge, there is none because we did the deep test hole over 12’ and there was no rock.

Mr. Higgins: What I suggest is, the Board, as part of their approval, if the Building Department doesn’t issue blasting permits and that’s what it sounds like, could potentially approve the subdivision plan with the requirement that there be no blasting. If that changes, you come back to the Board, to get an amended plan to allow the blasting.

Mr. Myrow: My only point would be if we find out there is somebody, if either you have jurisdiction issue for a blasting permit, a set of criteria that requires a plan, I’m not sure why we would have to come back to the Planning Board because we’ll know what exactly needs to be shown to allow us to blast, but we should find that out.

Chairwoman Escallier: Mr. Zigler works with that. He did that work at Concord Park. He came across rock, a lot of it. He’s going to be well informed on that.

Mr. Myrow: What was the procedure after that?

Chairwoman Escallier: Exactly what the procedure was, I don’t know, but he hit a lot of rock. To the point it was dubious whether it was worth it.

Mr. Higgins: Typically, there’s a pre-blast survey. All the houses from a certain distance are photographed and recorded so any damage in foundation walls, etc., can be agreed upon before any blasting is done.
Mr. Myrow: If we have no problem either certifying at some point that there is no blasting required or if there is, we’ll follow whatever the normal procedure is and provide whatever information you need to make sure the blasting is safe and we have a plan that can be approved.

Chairwoman Escallier: We would assume there is no blasting and if they do find that they need to blast, they could come back.

Everyone agrees.

Mr. Dowd: I was going through the July 24th letter from Ryan Nasher and some of the questions about the parcel that the road is going through; the one that you acquired to get access to Orchard. There was a request for a copy of the deed, and the deed was supposed to be attached here and when I looked at the deed, I’m trying to figure out the parties involved. The deed is from a company Monroe Commercial Properties, LLC to New Line Realty Holdings LLC, dated February 2013. Other documents for submittals the owner and applicant of the property is listed as Harry Adler Trust, and also Rose Point Properties.

Ms. Polatti: I am New Line Realty Holdings LLC. Rose Point Properties is the development entity. That’s not an owner, but a developer.

Mr. Myrow: We have on the map that Harry Adler Trust is the owner of this property and New Line Realty bought this property. There’s an agreement between them and this property will be merged with this project.

Mr. Dowd: Who’s ending up owning the project? New Line or Harry Adler Trust?

Mr. Myrow: Harry Adler Trust.

Mr. Dowd: Then the parcel that New Line owns is going to be transferred to Harry Adler Trust?

Ms. Polatti: It doesn’t have to be because it’s only the road; it’s going to be dedicated. The whole parcel.

Mr. Dowd: That’s three applicants; Rose Point Properties was the applicant to the Army Corp of Engineers.

Ms. Polatti: The parcel is owned by Harry Adler Trust and New Line Realty Holdings LLC. Rose Point Properties was the applicant because that’s our developer company.

Mr. Dowd: In order to get access to the whole subdivision on Orchard Rd is there an agreement between New Line and Harry Adler? To let them go across the New Line property to get to the road?

Ms. Polatti: Yes. New Line is now involved in the application. In that our piece is now going into it.

Mr. Dowd: So it’s a joint application now.

Mr. Myrow: New Line is in the town, so the only applicant within the Village of Harriman is Harry Adler Trust. We will provide you with an agreement.

Mr. Dowd: Obviously Harry Adler Trust needs to have access over New Line to get to the town highway otherwise you’re land locked.

Mr. Myrow: I’ll get you an agreement.
Mr. Dowd: You’re going to provide us with a consistency statement for SEQRA purposes.

Mr. Greeley: It might be nothing more than a letter stating what we submitted last year still holds true. It wasn’t called a consistency letter, it was a cover letter. It went through and showed the original.

Mr. Dowd: Based upon that letter, you want this Board to adopt the consistency statement for SEQRA based upon 2007.

Mr. Greeley: This was dated June 1, 2016. I think if we do a cover letter referencing that document, it will be adequate.

Mr. Dowd: You had raised a question about a Public Hearing. Chairwoman Escallier, do you think it’s necessary to have another Public Hearing on this matter?

Chairwoman Escallier: I’ll put it before the Board. We had a Public Hearing in 2014, for two days, we had a lot of input.

Mr. Myrow: I was advised that it was essentially this layout that was reviewed by the public. Essentially, the same lot count. If I’m not mistaken we made some changes to the plans that were recommended by the public.

Discussion broke out. All members agreed that a Public Hearing was not necessary.

Chairwoman Escallier: I did have a question to whether there would be an HOA instituted for the purposes of maintenance. Also there was some discussion about the corner coming into the development, there’s an icing problem and that the Village would take care of that. Also are the roads side walked within the development?

Mr. Myrow: No because all of the roads are public, all of the drainage facilities will be maintained by the Village so there’s nothing to HOA. The Village is making their agreement with the Town of Monroe to maintain these areas.

Mr. Higgins: One of the comments that we talked about regarding the legal documents in regards to the maintenance agreement between the Village and the Town for the portion of the access road that lies within the Town of Monroe shall be provided prior to Final Approval.

Mr. Myrow: The Mayor made it clear that he was having these conversations and it was not going to be an issue.

Ms. Polatti: There are sidewalks within the development.

Chairwoman Escallier: Another question is that Mr. Sweeney said he was going to look into the school children being picked up at the site. I don’t think that’s feasible. The children are currently being picked up at the intersection of Woodland and Orchard Drive. The children get dropped off by their parents in the car, there’s a bunch of cars waiting for the children to get picked up and then later to get dropped off the bus. That becomes a one way street in the winter with the snow.

Mr. Myrow: The only thing that I know is that we discussed whether buses could access. I don’t think that they’re going into the development. The school district is going to have to make arrangements. It’s their obligation to pick up the children.
J SQUARED BUILDERS
102-1-6.3
Site Plan
Present: Paul Edwards, Applicant

Mr. Edwards: I'm here tonight because when the Building Inspector was writing the letter denying me a building permit and sending me to the Zoning Board of Appeals realized there was a letter on file that we were unaware of at the time certain conditions in not issuing a building permit which forced us to come here first.

Mr. Hager: The record shows that the subdivision was approved many years ago, the roadway was partially constructed. The opinion at the time, there was a letter to the Building Inspector saying no more permits until the road is improved. The Code mentions that the Planning Board needs to review the roadway and see if it's fit. It may not be in the local code but the state. Mr. Edwards has also been directed to the ZBA due to the use; they applied for a two family use which is not permitted in the zone. The zones have recently changed from B-2 to R50. The application shows B-2, which will need to be amended. A two family home isn't allowed in either of these zones.

Mr. Edwards: Initially when I entered into the contract to purchase the property, the property was in the B-2 district; which is commercial and industrial. Which obviously was a mistake in the zoning in the way they drew the line? Because it's not setup for that; it's a residential cul-de-sac. When I saw the property was for sale, I saw the mistake and spoke to my engineer about it and had a meeting with Mr. Hager as well about the mistake and Mr. Hager had said that they were working on correcting that. I explained that I would get my application in while it was still under the mistaken zoning and possibly apply for a small two family house, similar in style and size to the houses around it but as a two family or a duplex that would fit into the architectural character of the neighborhood. And then perhaps the ZBA would allow it because of the mistake in the zoning, which is what I thought. But after I entered in to a contract to purchase the property, the zone was changed and Mr. Hager called me and explained it to me. I'm in limbo now, I do have a contract to buy the property. I haven't fully committed but at the same time this has taken some time and with this new twist, I have spent a lot of finances, between engineering, surveying and fees in the Village, I'm kind of committed but I'm still on the fence. It's not really that desirable an area in terms of building a new house, as a builder, for a single family house and it does have these caveats about the road improvements. So I'm here feeling things out to see where I stand to make a decision if I should not go forward and cut my losses and move on. I'm here looking for directions and guidance from this Board.

Chairwoman Escallier: You gave us an answer to that, based on what the prior agreement was. Do you want to go over that? It wasn't permitted to issue a permit of any kind unless those conditions were taken care of.

Mr. Hager: The property has already been subdivided, he's not asking for a subdivision. The problem is, even if he had come to me with a single family application, it would have required a zoning variance and I wouldn't have been able to issue a building permit based on the fact that the roadway hasn't been accepted. Originally the subdivision talked of building a new house, as a builder, for a single family house and it does have these caveats about the road improvements. So I'm here feeling things out to see where I stand to make a decision if I should not go forward and cut my losses and move on. I'm here looking for directions and guidance from this Board.

Mr. Higgins: The first comment has to do with the fact that you have to get a variance for the use because of the zoning. The first part of the second comment has to do with the history, the 1976 plan, that it was a private road and it hadn't been essentially completed yet. We do know that Mr. Russo states in his comments at present, the access to the existing three homes located on Beatty Circle access their respective driveways off a 12' wide paved access lane that runs from North Main St to a point below the cul-de-sac. If the Village were to allow for
construction of a 4th dwelling in this project, it is strongly recommended that the road be constructed in accordance with the approved plans and Village specifications. At a minimum, the existing access drive should be widened to a 20’ paved width to allow for the safe passage of vehicles along the access route. This widening will also improve the entrance at North Main Street, allowing vehicles to turn into the access lane without having to wait for a vehicle exiting the access lane to pull-out, in-turn reducing the chances of a vehicular accident at the intersection. Basically widening of the roadway to 20’.

Mr. Edwards: I am clear on that. I've had off the record conversations with local officials and they've explained that's what they hoped to accomplish over there because of the problem as well that the paving didn't go up far enough and they didn't put a grate on the bottom for the culvert pipe so the water and ice washes onto the road. As part of any agreement that they would enter into they would want those issues addressed. I'm not opposed to, I understand, I'm going to comply.

Mr. Dowd: Do you know who owns the road? The person that you’re in contract with, do they own any of the other parcels?

Mr. Edwards: No, I’m not sure. There’s only one parcel.

Mr. Higgins: Mr. Russo pointed out in his letter, the access lane that services the four parcels created as part of the subdivision is a separate parcel itself. We would recommend that the road parcel be joined with the Lot 3 parcel, so that some form of private ownership is maintained on the access road parcel, so that it is not acquired by the County or Village for lack of tax payments in-turn creating a hardship on the County or Village.

Mr. Dowd: It makes sense that part of your lot, the road becomes yours but you can’t just take the road if somebody else owns it. We’re talking about making it one parcel, so whomever you sell this parcel to also would own the road.

Mr. Edwards: In the past I have done private roads and I’ve had lawyers set up a private road maintenance agreement.

Mr. Higgins: Right now there’s a separate tax parcel for the road, we’re not sure who owns it at this point, but if you were to build the building on Lot 3, at some point in the future, the road parcel could go up for taxes and someone could buy it off the tax records and then say they are refusing access to your lots because I own the road now.

Mr. Dowd: If the person that you’re buying it from, how is he selling you the lot without an access that he may not own? The original owner of the subdivision may have given the other homes access; they may have some right that you might not have. Again, I don’t know, you might have to do a title search to figure who that belongs to.

Mr. Hager: Regardless to whom owns the right of way, the Village wants some assurance that it’s going to be maintained and improved to a certain degree. If there’s a building on the last lot of that development, for the developer to take on that ownership, that’s one way for that to be handled.

Mr. Dowd: If you owned the road, or if your purchaser owned the road, you could set up a maintenance agreement with the other three lots. A title search may show a road maintenance agreement.

Mr. Edwards: I would imagine that they have now because they have figured out a way to pave the road and maintain it every snow storm so I would imagine that it’s existing. I would be joining on to it maybe amending it. That’s been my past experience with private roads. If I can get this approval, it’s in my best interest to improve the roadway and shepherd a roadway maintenance agreement, if there’s not one existing. My engineer has
spoken to John Russo about the technical comments and he didn’t seem concerned about them, there was just common, standard stuff.

Mr. Higgins: We did receive the EAF, and orange County Sewer District #1 needs to review that sewer connection and the rest of the comments are technical items.
Mr. Edwards: This might be a preliminary thing because I could back out at some point; we’re trying to keep the cost down. I’m trying to make a determination whether I’m going to move forward and bring this project to completion or not.

Mr. Dowd: I think you need to find some answers so that you can inform the Board what’s going on. If you go to the ZBA looking for a use variance for a two family and a road improvement access, to get a building permit, they are going to want to know who owns this parcel as well.

Mr. Edwards: It is possible that it’s the trust that I’m buying the property from. Maybe they haven’t come to the conclusion yet that they have to convey the property to me. But I know from past experience that they can’t deny me access to the property.

Chairwoman Escallier: Maybe they already gave access to the others, but not you. How are you all going to share in the cost of putting in the roadway that’s necessary? To widen it 20’?

Mr. Edwards: They have already done improvements so I’m willing to do some improvements to the existing road over there so I can get the approval that I need. I’ve looked at that road and you can come close to that without upsetting the neighbors. It’s not going to be a dedicated road either so I don’t know how set in stone those numbers are either.

Mr. Hager: I think the 20’ width is a combination between the original subdivisions showed 20’ and also cross referenced with the fire codes that 20’ is standard.

Mr. Higgins: Going forward, I think that the comments on the letter need to be addressed; some of the documentation is in place for a portion of that parcel. It would be good to present what the status is with the maintenance agreement that is there, to let the Board know that it’s been taken care of and being addressed.

Chairwoman Escallier: A decision has to be made whether or not we are going to settle for a one family or go the Zoning Board and appear before them to seek the two family.

Mr. Dowd: In fact, if you keep your application as a two family, the Board would either reject it or send you to the ZBA. I think you need to make a decision on whether it’s a one or two family building, and give them some information. I think that it would be helpful to you, at least for the ZBA, if they knew the Planning Board said ok they want him to improve it to 20’ with a maintenance agreement, etc., show that to the ZBA so they would be able to impose it, so they know that they are covered if they want to give you a variance for access.

Chairwoman Escallier: They will still need to know whose has ownership of the road.

Mr. Higgins: Your engineer should be able to find out who owns that road on the County website.

Mr. Hager: What decision is this Board going to render? Are you reviewing it for a site plan?

Mr. Dowd: It’s a continuation of a previous subdivision and the conditions of that were placed by this Board in 1976 that have never been met. It’s an amended subdivision for one of the parcels in the subdivision and the road.
Mr. Higgins: If they were to follow through on Mr. Russo’s recommendation, which was to consolidate the road parcel in to Lot 3, that is an amendment of the original subdivision plan, four lots with a separate road. It would be appropriate to call it an amended subdivision plan.

Chairwoman Escallier: Mr. Hager, do you have any projects that you’ve approved that we don’t know about?

Mr. Hager: No, it’s been pretty quiet lately.

Mr. Dowd: I think this matter of Right Choice Builders and the ZBA issues.

Chairwoman Escallier: They are making a decision on September 6th, as far as I know, the ZBA believes what they want to put in, based on the applicant’s comments, is a warehouse. Which is not allowed in the I zone. Based on the discussion, points and checks with the ZBA, I didn’t think it was going to be approved. The applicant wanted the owners in the offices and that can’t be.

Mr. Dowd: In reading the minutes, it seemed like they were trying to distinguish between a warehouse and accessory storage. One of the things that they weren’t discussing, at least in the July minutes was the size of the accessory use as compared to the primary use. They were talking about having 11 storage units and 11 office suites, what would stop one person from having one office and five storage spaces? And they said that would be unacceptable but they’re not talking about one to one but the storage being 3,4,5 times larger than the primary use itself, which is not what you normally have as a customary accessory use. But they don’t seem to be addressing that so I’m not really sure.

Chairwoman Escallier: They have been going point by point on what they need to know and they told the applicant that you’re not satisfying me that you have a hardship because you’re saying that you have setbacks and certain setbacks and you’re not satisfying me on the hardship because you knew what you bought and you want to put in something different. Is there something else that you can do? Yes, you can down size the building.

Mr. Dowd: I have spoken to the attorney a couple of times, I know that they might send him back depending if they give them the interpretation they want, they may send them back for further site plan revisions so that we can determine what the actual parking space count would have to be. Then we would send them back asking for variance of 50-100 spaces.

Mr. Hager: The ZBA is working with the numbers that were preliminarily discussed at the Planning Board and Chairwoman Escallier got the impression, and I got the same impression because I attended the same meeting, that I don’t think that the Board members of the ZBA are confident at all with granting a 100 parking space variance.

Chairwoman Escallier: Not only that but the building height, they don’t want to approves that and make a precedent. The only thing that’s three stories high is the hospital.

Mr. Dowd: It sounds like it may come back to you as an interpretation that this storage facility is an acceptable accessory use.

Mr. Hager: If they render a decision that’s favorable on that interpretation and they don’t grant any of the variances then I would think that the applicant’s next step would be to come back to this Board with a reduced scope.

Mr. Dowd: Or with a definitive site plan. There’s a concept that his client has, the idea of having office space and each one assigned to a warehouse space but he’s still not saying any idea what clientele is going to fill the space.
Mr. Hager: He has produced a list of potential types of tenants that would have a need for office as well as storage space. Some of which the ZBA agrees with and some of which the ZBA feels is light processing and wouldn’t be permitted in that district of that size. They are still deliberating on how they’re going to do that, they have a draft determination being put together by their council and I agree with Irma, I think they’re going to render their decision on variances at their next meeting. The Public Hearings have been closed.

Discussion broke out.

Chairwoman Escallier: Have you received the scoping documents for The Gardens at Harriman Station?

Mr. Dowd: Yes, I received them electronically.

Chairwoman Escallier: Basically, you know the same thing that I do, Mr. Esposito after the last meeting tried to cut out two of the things that were on there. First, the environmental thing about endangered species and I can’t remember what the other one is now.

Chairwoman Escallier: If there is no other business, we need a motion to close the meeting.

**MOTION** was made by Member Stanise to close the meeting at 9:30pm.

**SECOND** was made by Member Klare.

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Respectfully Submitted:  
Barbara Singer, Recording Secretary