

PLANNING BOARD MEETING

APRIL 15, 2019

7:30PM

1. **PLEDGE OF ALLEGIANCE**
2. **ROLL CALL**
3. **APPROVAL OF MINUTES MARCH 18, 2019**
4. **38 COMMERCE DRIVE LLC**
108-1-12
DISCUSSION
5. **VILLAGE VIEW ESTATES**
101-1-1.31
CONDITIONAL FINAL SUBDIVISION APPROVAL EXTENSION
6. **RIGHT CHOICE BUILDERS INC**
101-2-1.12
REVISED SITE PLAN APPROVAL
7. **DISCUSSION – COMMERCIAL STORAGE**

**THE NEXT PLANNING BOARD MEETING IS SCHEDULED FOR
MONDAY MAY 20, 2019 AT 7:30PM
SUBMISSION DEADLINE FOR THE PLANNING BOARD MEETING IS
MONDAY MAY 6, 2019**

VILLAGE OF HARRIMAN PLANNING BOARD MEETING
Regular Meeting
April 15, 2019

Chairwoman Escallier opened the Village of Harriman Regular Meeting of April 15, 2019 at 7:30pm.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: Chairwoman Irma Escallier, Board Members Martin Stanise, Ron Klare, Juan Quinones, Jim Kelly, Kevin Dowd, Attorney, John Russo, 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 March 18, 2019

SECOND was made by Member Stanise.

AYE Member Escallier

Member Stanise

Member Klare

Member Quinones

Member Kelly

NAY: -0-

38 COMMERCE DRIVE LLC

108-1-12

DISCUSSION

Present: Larry Torro, Engineer, Civil Tech Engineering, PC.

Mr. Torro: The applicant is proposing a 40,000 square foot warehouse building on a parcel, along with some required parking. The parking is broken up in two areas, one in the front where there would be some office space, nine spaces and then in the rear more for the workers, an additional 17 spaces. The trucks and loading docks will be in the rear of the building. The one issue associated with this lot in the Northwest corner is Federal wetlands, they have been delineated by Robert Torgersen and what we are showing is a portion of that to be taken out at the corner of the building and the area between the road and the front of the building is a 2:1 area to mitigate what we have taken away from the wetlands to give back. That's basically the concept, fairly cut and dried as far as the proposal. The biggest hurdle is dealing with the wetland issues with Army Corp, which he started incorporating that and is working with Robert Torgersen.

Mr. Dowd: Is there an end user for this?

Mr. Torro: Yes, one user, I'm told it would be for medical supplies.

Mr. Russo: What are you doing about storm water on this site?

Mr. Torro: We have to deal with underground detention to the rear of the parcel. In the Northeast corner, I'm trying to find out about the detention facility that's there. Partially on this lot and the one adjoining us and the parcel across the street have the rights. At this point, it is more of a legal issue to find out what you're entitled to and not since it's on your property.

Mr. Russo: There are five loading docks in the back, and it appears that they could be in conflict with your parking when trying to maneuver in and out. What's the maximum size truck are you anticipating?

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Mr. Torro: In the back, I will delineate where the spaces can be. We do have enough to have a 24' back out for the parking and the doors after that, and for cars to come around. I would think 50' box trucks would be the largest. To pull in and back in there, it would be a k-turn maneuverer to get out.

Mr. Russo: Your handicap parking aisle has to be 8' wide for state building code.

Mr. Dowd: Do you know how many employees you're expecting?

Mr. Torro: Thirty employees.

Mr. Russo: Has work been started with Army Corp? The plans will include all remediation work?

Mr. Torro: Yes, first to get it validated for the 2:1 mitigation and that will all be shown on the plans.

Mr. Russo: The air conditioner handlers be on the roof?

Mr. Torro: I would envision that's where they would put all of the equipment. As it progresses, we'll get you more of that information. Right now, it's in concept, just to get the theory in front of the Board to see if anything big jumped out initially.

Member Kelly: What do you project on traffic? Is this strictly distribution?

Mr. Torro: I have asked them to get me some numbers on what they anticipate, since it is warehousing. How many trucks per week would come in and unload versus how many would be going out? This is part of the information I'm trying to find out, if they drop off a 50' box, would it stay there for a day or two? This is warehousing and distribution.

Member Quinones: Do you know the hours of operation?

Mr. Torro: No, I don't, but I can get them. Also, I can get truck counts for you.

Mr. Russo: We may ask that you take a look at the light at the intersection. The state may be upgrading that. They may be doing some signal timing changes.

Mr. Dowd: This isn't a 24-hour operation, is it? Two shifts?

Mr. Torro: No, it's my understanding just one shift. I will clarify that as well.

Mr. Russo: Water and sewer both coming in on the easterly side? And you'll show all of the utilities off the road? Add notes to the plans as to when the wetland was flagged. You'll get a JD letter.

Mr. Torro: Yes

Mr. Russo: I noticed on the original survey that they sent to us that there's a drainage line running from a catch basin in the road at the entrance is actually outside the easement. You may have to shift the catch basin, I'm not exactly sure since it's in the entranceway.

Member Kelly: The parking in the back, you have the loading docks, but you don't have the spaces marked.

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Mr. Torro: John (Russo) has asked that we delineate exactly where the doors would be opening.

Mr. Russo: Another thing to look at is where the trucks are going to queue. We know that they all say that they stagger the loads coming in and out but based on timing all of a sudden you have five truck coming in at that same time. If you have trucks in the docks, where are you going to stage these?

Mr. Torro: I have to get a handle on that. They're calling for five doors, find out how often they're going to be full. We'll be working on cleaning these plans up and getting you more information on it.

VILLAGE VIEW ESTATES

101-1-1.31

CONDITIONAL FINAL SUBDIVISION APPROVAL EXTENSION

Chairwoman Escallier: We have a letter that Larry Adler has sent, they want an extension.

Mr. Dowd: Based upon their letter, it sounds like they have some internal problems, I assume between the owners or the member of the LLC, they say that they've straightened that out now and they have to get the agency approvals. At some point in time you may want to have them come in here and explain again why it's taking so long to get these agencies approvals. The problem is if you deny the extension, and they have to reapply and you're going to have to go through the whole process again and the zoning hasn't changed so they will submit the same plans over again. You don't have to extend it for 6 months; it could be three.

Chairwoman Escallier: There were extenuating circumstances.

MOTION was made by Member Stanise to grant a conditional final approval for three months and if they need any further extensions, they need to appear before the Planning Board.

SECOND was made by Member Klare.

AYE Member Escallier

NAY: -0-

Member Stanise

Member Klare

Member Quinones

Member Kelly

RIGHT CHOICE BUILDERS INC

101-2-1.-12

REVISED SITE PLAN APPROVAL

Present: David Niemotko, Architect

Member Kelly: Kevin (Dowd) has everything been according to the law in order to get their final approval?

Mr. Dowd: According to John's (Russo) letter, there are two pages missing from the plans.

Mr. Niemotko: There was human error on the printer's part. It's my understanding that you have SP-18, except for John's (Russo). And we were able to bring SP-19 to the Village Hall earlier today. I can say that on SP-18 and SP-19 there are no changes from the approved plans from our previous meetings. I stand here firmly before you with that.

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Member Kelly: What effect does that have on this?

Mr. Dowd: Significantly, it doesn't.

Mr. Russo: I don't have SP-18, but I don't think that anything has changed. We previously signed off on the SWPPP that was prepared for the project and their consultant that prepared it for the project wouldn't have changed anything.

Mr. Niemotko: The building elevations haven't changed, what you see there in the rendering that we submitted. All of the plans are signed and sealed by the professionals involved.

Member Kelly: Other than those two issues, are there any other issues?

Mr. Dowd: I don't believe there are any, unless the board knows of any. I think that he has done everything that he has had to do that the engineer required. We had the Public Hearing on 2/25/19 and we did close it. Barring some unforeseen circumstances, you have 62 days in which to grant or deny the approval, we are at that now. That's the choice that you have now. If there are any issues here that you need to discuss with David (Niemotko). I don't know of any legal impediments. There's an easement that you've had signed that has to be recorded with the County Clerk and we need verification that you did that. That would be a condition of the approval. So it comes down to voting, we didn't close out the SEQR process, we did do the Lead Agency but not the Negative Declaration. We need to do that first, and then the actual approval of the site plan, conditional final site plan with whatever conditions need to be, whatever fees have to be paid.

Chairwoman Escallier: Is the project up to date right now?

Ms. Singer: Yes.

Chairwoman Escallier: Ok, before we do that, you said that if the Board had any statements to make, now is the time to do it.

MOTION was made by Chairwoman Escallier to declare Negative Declaration

SECOND was made by Member Quinones.

AYE Member Escallier

NAY: -0-

Member Stanise

Member Klare

Member Quinones

Member Kelly

Chairwoman Escallier: Mr. David, I am going to say that based on your presentation, you came here calling your project "Office with accessory storage use". But based on your presentation during the middle course of this project, your actions never mentioned office. You called it "new commercial storage building" and sent all correspondence using the same name for the project. You failed to sustain office with accessory storage. In addition, you provided us site plan that was titled just "New commercial storage building". Where was office in there? If that's the title and that's what it's going for under the Code, that office is the main use and now it's called private storage is the accessory than that shouldn't have happened. I remember that I recognized that as a marketing technique and I told you that you were misinterpreting the use and that you were stating it, stating a different use. Besides that, you went to the Zoning Board of Appeals for less parking. So based on your

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representation, I don't see that you provided any room to grow the business on the lot and you left the Village of Harriman with the burden of the future traffic that this will cause. My objection to the traffic, is the future traffic, because everything is okay for now but five years from now it could a totally different story. That's what I wanted to state.

Mr. Dowd: You're looking at the traffic impacts five years from now?

Chairwoman Escallier: Yes.

Mr. Russo: the traffic study looked how far in advance? Three years?

Chairwoman Escallier: The traffic study made no projection. The lot is built out so there's no Plan B for the traffic. So, what's going to happen? It's going to spill into the village and that's the primary thing that's going on here. I just wanted to state what I see based on your representation and based on your actions. Your actions supported the storage, not the office. You never promoted office, never, during the whole two years we've been here with this.

Mr. Niemotko: You're wrong.

Chairwoman Escallier: Why am I wrong?

Mr. Niemotko: We showed the office layout in the plans. We did note the areas of the offices, we did note the doors, hallways, the parking based on the offices. You're making absolute statements at me that I have to respond to. On SP-2, SP-3, they show the office layout on the building.

Chairwoman Escallier: I have some material here that you provided.

Mr. Niemotko: The materials get updated every month. I think we need to base our information on the latest set of plans.

Chairwoman Escallier: I don't want to make a big deal of this, I'm just stating how I feel about the project from what I've seen, that's all I'm doing. Everyone has their own right to their own interpretation. What I see here is that, here's an application to appear before the Planning Board and what you're saying is "the proposed construction is commercial storage", there's no office in there. I have here "proposed new commercial storage building", where's the office? I have correspondence that you have with Sherry William and you're calling the project "new commercial storage building", so where's the office there? I have an application to appear before us and you're calling the project "New office building with commercial storage accessory use" but on line 11 of the same piece of paper description of proposed use "new commercial storage building".

Mr. Niemotko: Your zoning codes is what titles it. It says, "commercial storage". Your zoning code, not mine.

Chairwoman Escallier: Where's the office? Commercial storage in the Code does not exist as a main use in B-2.

Mr. Niemotko: We show the offices there and we based the parking on that. Board members, we've talked about it so much the plans are self-evident. We've answered everything, exhaustingly and exhaustedly. So, the design stands where it is and without question, we satisfied every technical issue, which is the primary function. We've satisfied every question that you've had regarding office layout, regarding parking associated with the offices, turning radiuses of the trucks, parking of the trucks. We've shown the area of the offices, so I stand before you here with everything documented in front of you. It satisfies your zoning code, your municipal engineer's comments, the legal requirements, we ask that you please accept this project.

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Member Kelly: I think that over this project we've generated so much paperwork. He has come back with the information and I think that if we go back and look at stuff that's older we are going to be in trouble because that's the purpose of having an engineer here, is to go over this and to look at everything that we've discussed and hopefully everything was covered through documentation. I didn't get all of the documentation because I was an alternate, but the idea is that we're here to look at this, but we have a lawyer who represents more than 4-5 towns and an engineer who does this for a living. I depend on you and I can look at it but with my limited knowledge do as much as we possibly can to understand it and to question you on some of the things that we don't understand. If you come here and tell us that you've gone over everything that we've asked for has ben done and you're saying that everything is covered. That's important.

Mr. Dowd: The plans right now as they stand, the plans that you have before you tonight say on the pages that it is an "office building with accessory private storage". That is the terminology that is presently in your Code since there was a Code change in the middle of this project. The use that you're approving is an office, which is a primary use, with accessory private storage as now defined in the Code. That's what you'd be approving and the plans that the engineer says are fine, that's what you're looking at. You just finished SEQRA, looked at all the drainage, looked at everything for this project for two years. Really it comes down to the point of view of, we're telling you that as far as he's concerned technically, and I'm concerned legally this project and these plans meet your Code specifications. That's what you'll be voting on it and the conditions that you put on it. One, the performance bond for the work that you need to do in the right of way. Two, that we need the highway work permit before you do any work. Three that you have to provide proof that you filed the easement for the drainage and lastly that you pay any fees that are outstanding. Once they meet those conditions, if you approve this, then the site plan can be signed by the Chairperson. I don't know of any other legal impediment for you to not take action. In fact, if you don't take action tonight, you don't have a reason to take action, for or against this project, there's a provision about automatic approval after 62 days. You don't want that to happen because that would end up in litigation because we would say that no it didn't happen automatically, and they would say it did happen automatically. That's not the purpose of this Board. This Board is to review the plans and review uses by the Code of the Village of Harriman. I think you've done that, the ZBA did it. I don't know if there's anything else that can be done on this project more than what's been done by this Board and your consultants and your Building Inspector. There has to be a motion and a second to approve this project with those four conditions and then you can vote yes or no. And as long as there are three votes yes, this project is approved conditionally.

MOTION was made by Member Kelly to approve this project conditioned upon the highway work permit, performance bond in an amount approved by the Village Engineer, the drainage easement that was produced is recorded at the County Clerk's office and proof that it's been filed and to pay any outstanding fees that are owed to the Village.

**Resolution with conditions to be prepared by counsel.*

SECOND was made by Member Quinones.

AYE Member Escallier On legal counsel

Member Stanise

Member Klare

Member Quinones

Member Kelly

NAY: -0-

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COMMERCIAL STORAGE

Chairwoman Escallier: The Mayor has a Public Hearing on our proposal on June 12, 2019.

MOTION was made by Member Stanise to close the Planning Board meeting of April 15, 2019 at 8:10pm.

SECOND was made by Member K.

AYE Member Escallier

NAY: -0-

Member Stanise

Member Klare

Member Quinones

Member Kelly

Respectfully Submitted: _____
Barbara Singer, Recording Secretary