

**PLANNING BOARD MEETING**

**FEBRUARY 25, 2019**

**7:30PM**

1. **PUBLIC HEARING**  
**RIGHT CHOICE BUILDERS INC**  
**101-2-1.12**  
**REVISED SITE PLAN**
  
2. **PLEDGE OF ALLEGIANCE**
  
3. **ROLL CALL**
  
4. **APPROVAL OF MINUTES JANUARY 28,2019**
  
5. **RIGHT CHOICE BUILDERS INC**  
**101-2-1.12**  
**REVISED SITE PLAN**
  
6. **ST ANASTASIA CHURCH**  
**102-4-7.22**  
**SITE PLAN**
  
7. **38 COMMERCE DRIVE LLC**  
**108-1-12**  
**DISCUSSION**
  
8. **DISCUSSION – COMMERCIAL STORAGE**

**THE NEXT PLANNING BOARD MEETING IS SCHEDULED FOR**

**MONDAY MARCH 18, 2019 AT 7:30PM**

**SUBMISSION DEADLINE FOR THE PLANNING BOARD MEETING IS**

**MONDAY MARCH 4, 2019**

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**  
**Regular Meeting**  
**February 25, 2019**

Chairwoman Escallier opened the Village of Harriman Regular Meeting of January 28, 2019 at 7:30pm.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

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

**Absent:** Juan Quinones.

**PUBLIC HEARING**

**RIGHT CHOICE BUILDERS INC**

**101-2-1.12**

**REVISED SITE PLAN**

**Present:** David Niemotko, Architect

Chairwoman Escallier: Ladies and gentlemen we are here to listen to what you have to say about the project and what questions that you might have about the project. If you haven't already done so, please turn off or put your phones on vibrate.

Ms. Lisa D'Amico, 190 Rte 17M: My mom owns the building at 190 Route 17M and this building is going to be pretty close to our property, in the back building. We, my mother, Anne D'Amico, nephew Matthew McEachern, had a few concerns about some of the things on the site plan that we have questions about. Our first concern was the garbage disposal area. In the past, we have had some issues with water rats in the lower back building, probably from the river but we weren't sure if there's going to be any food, lunches, or stuff like that in the office space of their building. We would like to know if they would consider moving it further away so there wouldn't be more rats on our property. We do have somebody that comes take care of them. There are traps outside to keep it clear. There is no food in our building. The other concern is regarding water. We are concerned about the water disbursement from the system that they're putting in. My mother had mentioned that the previous Building Inspector, Ron Walker, had told her that there was a system that was already put in when they were considering putting something else behind the car wash, and that's where the mound of dirt is now. We were wondering if that's there if it's going to be removed and a new system is taking its place. Does anyone remember anything about that?

Mr. Russo: There were no systems installed.

Ms. Anne D'Amico, 190 Rte 17M: He said there was a drainage system in place. I was misinformed.

Mr. Russo: There are some drainage pipes that run through the far side of the property from the car wash and out towards the river but there's no drainage system.

Ms. Lisa D'Amico: So that's the only thing that was there originally, okay. The third question was regarding the swale. A swale would further insure that we don't have any water flow going towards our property.

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*Mr. Niemotko: I'm the architect that did the design work for the project. The diversion swale that you mentioned, the site, on your side of the project, is all swales that contour towards our property. It does not contour towards your property and in addition to that, there's a retaining wall and then a curve right along the east side of the property that protects your side from any additional water that may happen. Further, beyond that curve, the land naturally slopes towards this property, not towards yours. So you have three different means of protection from your property. The other concern was the dumpster, that was an evolution of the design that it was placed in that location because of the turning radiuses of the cars and trucks that would be on the site. It would be very difficult to put it on the west side because of the turning radius of the trucks. It was placed here because it's out of the way of the turning radius and it's about 70' away from your building. It's approximately 40' from the property line and another 30' from the property line to the corner of your building. This building is not allowed to prepare food, have a restaurant or anything of that nature. Will the office eat lunch? It's quite possible.*

*Ms. Lisa D'Amico: I also wanted you to be aware of that because they're so close to the Ramapo River, that that could happen anyway with or without food.*

*Mr. Niemotko:: At one point we were even asking to keep the dumpsters inside the building. And to have it removed periodically, monthly, weekly, but that was something that wouldn't be entertained. The outside dumpster will be removed at a systematic basis.*

*Ms. Lisa D'Amico: There's also the distance between the front of our building and the wall that you are going to put in.*

*Mr. Niemotko: There's a wall partially down that side of the building which is at least 30' away from your building plus another 10-15'.*

*Mr. Niemotko and Ms. D'Amico confer at the site plan.*

*Chairwoman Escallier: Is there anyone else that would like to speak or ask questions about the project? Being there are no others,*

*MOTION was made by Member Kelly to close the Public Hearing.*

*SECOND was made by Member Klare.*

*AYE Member Escallier*

*Member Stanise*

*Member Klare*

*Member Kelly*

*Member Zwarycz*

*NAY: -0-*

*Ms. D'Amico has one more comment.*

*Chairwoman Escallier explains that the Public Hearing has been closed but you are welcome to write your question in.*

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*MOTION was made by Member Klare to accept the minutes of January 28, 2019*

*SECOND was made by Member Zwarycz.*

*AYE Member Escallier*

*Member Stanise*

*NAY: -0-*

*Member Klare*

*Member Kelly*

*Member Zwarycz*

**RIGHT CHOICE BUILDERS INC**

**101-2-1.-12**

**REVISED SITE PLAN**

***Present: David Niemotko, Architect***

*Mr. Niemotko: Going through the comments, #1 is the maintenance agreement for the easement. The owner reached out to an attorney who is able to work that agreement up. I mentioned that you were the Planning Board attorney, he knows you, so I'm hoping that the two of you can talk and get that resolved. I forwarded all of the metes and bounds descriptions to him, including the revision of the description, the plan was correct. We reached out to the surveyor, but we haven't heard back from him yet, but it is in the description. I forwarded the original site plan that had the original storm water easement, the metes and bounds description, our new proposed easement and he reviewed everything, he's ordering a title search and I'm expecting that to be worked on and resolved within the next week or two weeks. As soon as the project is approved, we submit for Orange County Sewer permit and once we have that permit and approval, we will forward it to the Village of Harriman.*

*Mr. Russo: Have you submitted to the Orange County Sewer to get their input? Their approvals on everything?*

*Mr. Niemotko: That's a two-stage process. Originally, we submitted to them all of the details on the plans reflect their comments. You have that correspondence. We have not received any comments or correspondence, I have reached out, Barbara's reached out. In this particular case, it's not the end concern because before any work can go out they have to receive a permit from Orange County Sewer. At that time, we will submit the permit applications, and once we get a permit from them, then we can give it to the Village.*

*Mr. Russo: My concern would be if they have any changes. And the impacts that are going to happen back there.*

*Mr. Niemotko: I agree, but it's been over three months now.*

*Chairwoman Escallier: My concern is that the clock is ticking from today on and that they won't make it on time.*

*Mr. Russo: Just like working with DOT, you get approval on your plans then you would file for the work permit. Same thing here, they should be signing off on the plans.*

*Mr. Niemotko: To continue with the comments, #3 is a typo, the 21.11 versus the 21.41. our researchers show that needs to be changed so once we get the written description back, I will include it with our submission. Comment #4, the enlarged plan of the easement showing clearly legible. We have done this, it's on the SP-2. What we did was relocated one and two of the notes and the enlarged driveway further down the page to include the radius and show the elevation topographic that you're requesting.*

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*Mr. Russo: It was very hard to see how you were tying back from the grades that were proposed in the drive and the grades that were behind the curb line in the existing topography. It didn't seem to blend very well at all.*

*Mr. Niemotko: Once we enlarged it, it shows clearly. The patch that you're looking at is the 584 topography and we have that fully resolved coming across. Comment #6, we indicated spot elevations on the pad for the dumpster.*

*Mr. Russo: It doesn't look like the grading is complete around the outside of the dumpster pad, the way that the contours ran the pad would have been sitting in space.*

*Mr. Niemotko: It ties into the 566, but we have spot elevations to further define that. The comment on SP-4 #1, I'm not sure why it generated that way, but the scale is 1" = 5' and 1" = 50', that's been revised. Comment on SP-6 #1, we revised the plan according to the notes. We could submit the revised plans within 24-48 hours.*

*Member Kelly: You mentioned something about crossing the road with the trucks.*

*Mr. Niemotko: We are limited to a 30' truck.*

*Member Kelly: When I was driving down the road, and a big truck was coming out of the other warehouse. It blocked traffic, it couldn't make the turn because it was too big. It's trying to make the turn, it's backing up, blocking traffic coming out of the apartment houses. If you have eight bays, and you have constant traffic and you say that DOT approved it, I find it a little scary that you're going to be crossing that lane where you can't see that traffic coming up because of the grade on the road. Even when you're leaving the car wash, you can't see the cars coming.*

*Mr. Russo: They actually showed that they meet sight distances. And what size truck was it that you saw?*

*Member Kelly: A full sized tractor trailer. But like anything else, you start out with something and then all of a sudden it gets bigger. If it's approved, then it's approved, I just wanted to say that I was uncomfortable with it. Another question, you have eight trucks bringing supplies into the building, do you have an elevator?*

*Mr. Niemotko: The upper level is on grade with the road, and there are three truck bays on grade with the road.*

*Member Kelly: How about the ADA accessibility? The second and first floor?*

*Mr. Niemotko: The ADA accessibility entrance is to the lower level. There is no ADA accessibility to the upper level. The Code requires that we provide an ADA accessible area and we do provide that on the lower level.*

*Member Kelly: So, you have someone in a wheelchair, comes into the building and has to go to the second floor, how do they get up there?*

*Mr. Niemotko: It's not accessible. They would have to be carried up or walked up, something of that nature.*

*Mr. Russo: Is there anything in the code that requires both levels to have ADA access?*

*Mr. Hager: It depends if they're primary function areas. I think what David's mentioning is that if a portion of the building is accessible, that may meet the Code criteria. I would have to look at it more closely to see if that's accurate.*

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*Member Klare: Isn't it required that a commercial building be accessible?*

*Mr. Niemotko: This is not a commercial building, as per the Building Code. It's not open to the public, it's not a store, restaurant, election place, or that type of building. This is a new office building with private storage accessory use.*

*Member Kelly: If someone comes in and rents the office on the second floor and is handicapped, can we be sued?*

*Mr. Dowd: I think that responsibility would be on the building owner. I think what you're saying if you have someone that comes in whose disabled, they would be directed to the bottom level for rental of a space there. As long as there is ADA access to the lower level, they have met the Code.*

*Member Kelly: With the primary use office, could you (John Hager) look into this and let us know?*

*Mr. Hager: Yes.*

*Mr. Niemotko: The ADA accessibility to the second floor would be a Building Department concern. When we prepare the architectural, then we would have to provide the Building Code analysis to show that we are conforming to the International Building Code. At that time, we would prove to John Hager which floors and which units were ADA accessible, which aren't. I think that that's the next phase of the project. If I submit architectural plans to the Building Department and within those plans there will be a Building Code review and once that's done, we prove that the second floor is not ADA accessible or needs to be ADA accessible, then we introduce the elevator at that time, but not at this time. It's not an issue that's going to go away, it's an issue that I have to prove with the architectural plans once we submit for a building permit. It will be addressed.*

*Chairwoman Escallier: We are waiting to hear from Orange County Sewer regarding the sewer approval, and with regard to the handicap access to the second floor, John (Hager) will look at the Code to see what, if any, might affect the project. Is there anything else outstanding?*

*Mr. Dowd: The easement and maintenance agreement.*

*Chairwoman Escallier: We will need these things within 62 days.*

*Mr. Niemotko: We will gather this information and submit for the next meeting.*

**ST ANASTASIA CHURCH**  
**102-4-7.-22**  
**SITE PLAN**

*Present: Jim Buyea*

*Chairwoman Escallier: This is a site plan review after going before the Zoning Board of Appeals.*

*Mr. Buyea: Last time this project was before you, I needed to get a revised site plan, which I did.*

*Mr. Russo: The comments that I have are, the bulk table on your plans lists the required setbacks but the table typically lists what is provided. You've listed the minimum but not actually what's provided. So, where you've*

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*listed what's required, you need to list what's provided or proposed. The second being a note being added to the plans noting that the 23' sideline variance was granted on February 2, 2019.*

**MOTION** was made by Member Klare to waive the Public Hearing.

**SECOND** was made by Member Kelly.

**AYE** Member Escallier

**NAY:** -0-

Member Stanise

Member Klare

Member Kelly

Member Zwarycz

*Mr. Hager: This project has had two Public Hearings with the Zoning Board of Appeals and there was no public comment.*

**MOTION** was made by Chairwoman Escallier to declare a Negative Declaration as an Unlisted Action

**SECOND** was made by Member Klare.

**AYE** Member Escallier

**NAY:** -0-

Member Stanise

Member Klare

Member Kelly

Member Zwarycz

**MOTION** was made by Chairwoman Escallier to grant approval with conditions that the two comments in John Russo's letter of February 22, 2019 are satisfied.

**SECOND** was made by Member Stanise.

**AYE** Member Escallier

**NAY:** -0-

Member Stanise

Member Klare

Member Kelly

Member Zwarycz

**DISCUSSION – COMMERCIAL STORAGE**

*Chairwoman Escallier: Is there topic that anyone would like to discuss concerning commercial storage?*

*Mr. Dowd: Has there been any movement by the Village Board to do anything with the last revisions we discussed?*

*Chairwoman Escallier: As far as I know, no. There was a Public Hearing on another Local Law. The only thing that bothers me is that we're so close to saying yes or no to the plan that was just presented and I have a lot of doubt that it can be approved.*

*Mr. Dowd: The change that was made, made it an accessory use. Unless they come forward and do something about the size of the accessory use, you're confined by the Code. I am only advising the Board that the Code is what it is and if it comes next month and there's no changes by the Village Board you have to apply the Code. That means an approval unless there's something else that you know that's objectionable.*

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*Discussion broke out regarding trucks, traffic and congestion.*

*Mr. Dowd: I think that you're reading into the DOT the common use of the word warehouse. Our Code defines warehouse and now it defines what private storage is. He's confined to private storage, he's not a warehouse and as long as he complies with that Code, you're stuck. The fact that some letter from DOT refers to it as a warehouse, they might think that it's a warehouse but not by our Code's definitions. It's a different use of the property, warehouse is not a private storage facility by definition in our Code so they're a private storage accessory use and John's (Hager) got to make sure they are as defined.*

*Member Kelly: John (Hager) has the right in inspect, every three years?*

*Member Zwarycz: Every change of tenant, I would think.*

*Mr. Dowd: He would have to make appointments to see what's going on in the units and he can do that whenever he thinks is appropriate.*

*Mr. Hager: Periodic inspections are every three years for that use. If I thought there was a problem or received a complaint, then I can request to do an inspection. If it's reported to my department that something is going on there that's not in sync with the site plan, then I would investigate. Part of the investigation is to ask for an inspection. Cooperative landowners would allow an inspection. If you get resistance then you have to go to the next level to try to get access but what I would expect to happen, if someone were occupying it in a manner we suspect could happen and they were called on it and inspection revealed that they were doing just that, they would offer to come in to compliance and get a passed inspection. The question is how long before they go back out of compliance?*

*Chairwoman Escallier: He's going to give the Certificate of Occupancy when he approves of the project. He's going to act on our behalf.*

*Mr. Dowd: He's going to watch the building go up, do inspections, and make sure that the uses that are intended are in Code compliance.*

*Mr. Hager: Accessibility is one of the elements that have to be looked at. I can't issue a Building Permit if it doesn't meet minimum standards for accessibility. It has to be figured out if that second floor meets ADA accessibility. Usually what the problem is, if there are eight businesses in there and eight different services then all eight of them should be accessible. I don't see how one business can be on the second floor and they don't have to have accessibility. If a tenant took two spaces, and are providing the same service in both spaces, and they can provide accessibility in one space and not the other, that may be possible.*

*Mr. Russo: The other exception may be that they're not open to the public.*

*Mr. Hager: There are exceptions because of the size of them, certain uses.*

*Mr. Dowd: The only precedent that you're setting is approving something meets the Code. That's why you proposed changes to the law to the Village Board and as far as the amount of accessory storage is allowed, that's what you're trying to control. We had a few complications, we were trying to mix commercial and residential at the same time and it wasn't working at all with the residential part of it. Plus, we were holding up The Gardens at Harriman Station because a lot of the first changes were in that law. Any news from The Gardens at Harriman*



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*Station? Maybe Barbara (Singer) could write a letter to Mr. Gold and ask for an update? You have the right to ask somebody to update you on the status of their project.*

**MOTION** was made by Member Klare to close the Planning Board meeting of February 25, 2019 at 8:30pm.

**SECOND** was made by Member Kelly.

**AYE** Member Escallier

**NAY:** -0-

Member Stanise

Member Klare

Member Kelly

Member Zwarycz

*Respectfully Submitted:* \_\_\_\_\_  
*Barbara Singer, Recording Secretary*