

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**  
**Regular Meeting**  
**January 27, 2020**

Chairwoman Escallier opened the Village of Harriman Regular Meeting of January 27, 2020 at 7:30pm.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

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

**MOTION** was made by Member Kelly to accept the Planning Board minutes of December 16, 2019.

**SECOND** was made by Member Klare.

**AYE** Member Klare

**NAY:** -0-

Chairwoman Escallier

Member Kelly

Member Quinones

**VILLAGE VIEW ESTATES**

**101-1-1.-31**

**CONDITIONAL FINAL SUBDIVISION APPROVAL EXTENSION**

**Present:** Larry Adler, Owner

Mr. Adler: I wanted to update you on where we are. Hopefully John Russo can speak to some of the specifics, there are some time items that need to be picked up on. A minor housekeeping item, I'm trying to stay ahead of this. I put together a little schedule just for clarification between Barb (Singer) and I because we have some conversations about when the approvals are up and I want to make sure that we stay on it. (Mr. Adler distributes the schedule to Board members). I went back, and remember I'm the new person, when the Planning Board first approved this for a conditional final and went back and did all of the six-month extensions that we've received, and again it's greatly appreciated. We're trying to work through it now. The six month extension is on the right side of the chart, and I called Barb (Singer) and said that I wanted to get on the agenda for January to get a month ahead, in case there were any items that John (Russo) has picked up that we can get corrected by February and the question is, when we came in on July 15, 2019 and we received a six-month extension, but our previous extension wasn't expired until August 20, 2019, I was assuming that our extension was running until February 20, 2020 because it was a six-month extension. I just want to make sure, especially now hearing some of the comments from John Russo, I would like to quickly turn them around and get them in before the February meeting.

Ms. Singer: My suggestion is that in the motion, if there is an extension granted, specify when it expires. Not just for Mr. Adler's project, but for every project here on in. Then there would be no grey area, no confusion.

Chairwoman Escallier: I think the miscommunication came in when there was no representative here, just a letter.

Mr. Adler: As long as we're on the same page, we'll clear it up going forward, that's fine. At the last meeting, I heard the board saying the we needed to see some progress, and we've been pushing the engineers and it seems like the biggest outstanding issues were the submission for water approval, sewer approval, and then back to the Department of Health for the subdivision approval and the drainage district. They were submitted in early January and we were on the Village Board's agenda for their January meeting. John (Russo) wasn't there but the Mayor said that he had to confer with him and make sure things were fine and they received it and subject to the review from the Village attorney and Village engineer, they'll move forward. They tentatively set March 10<sup>th</sup> as

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*the Public Hearing because they said that they had a couple of other Public Hearings for February. That's the current plan subject to John (Russo)'s review and Dave Darwin's input to the Village.*

*Mr. Russo: We have reviewed the drainage district as far as the annual cost of maintenance. I have also discussed with the Mayor some other concerns as far as insuring that there's money posted upfront when the district gets formed so if anything happens, there's money there. The other thing that we're looking at is when do we accept this. It wouldn't be until after the infrastructure is 100% complete as far as all construction on the site but also do we look at a certain percentage of build out of the homes? That's the question that we're trying to work through now. As far as the water, we just received the plans. We're in the process of reviewing that. We have a number of comments that they should be able to address. Once they've satisfied everything, that we're questioning, then the Mayor can sign the application for the Department of Health, and they can make their submission to the Department of Health. It would be the same in regard to the sanitary sewer. They would have to go to Orange County Sewer District #1, from there it has to go to the Department of Environmental Conservation then back to the Orange County Sewer District. We are working through all of that at present.*

*Chairwoman Escallier: So we don't have to review again the Army Corp of Engineers, and the other approvals?*

*Mr. Russo: As long as the time hasn't lapsed on those, we're still good.*

*Mr. Dowd: We haven't seen the plans for the sewer yet?*

*Mr. Russo: Yes, it's all in the plans.*

*Mr. Dowd: There's no construction done on the site? No clearing?*

*Mr. Adler: No, nothing. The only thing that I would add, because it came up at the Village Board meeting, was whether or not we needed to submit an EAF form for the drainage district.*

*Mr. Russo: It was my understanding that they were asking for a short EAF, that's what Mr. Nasher had told me.*

*Mr. Adler: Based on the resubmission of the plans, that were to finalize everything, it looks like the draftsman didn't turn off some layers. I apologize, it shouldn't have come to the Board with two sets of curbs.*

*Mr. Russo: We're going to work through it. There's a lot of little things that have to be cleaned up. There are somethings that have to be addressed but I think they can work through it.*

*Mr. Adler: Just to be clear, the plans haven't changed at all. This was just addressing the comments that were made.*

*Chairwoman Escallier: The other concern was the trees at the entrance. We had discussed that back in 2014. They supplied us with the scientific name of the tree, but the Thuja has different species. So, it was determined that they were saying that they were going to be so many feet tall when you looked at the species that you chose, it was going to be too overgrown. We talked about putting in the dwarf version, that it would fit. This is something that you need to revisit. There was also a setback from the curb as well, I think it was 3'.*

*Mr. Russo: I think that we were looking for more than that.*

*Mr. Adler: I did read about the visibility issue, so I am aware of it. There was no direction to take trees off.*

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*Mr. Russo: It wasn't to take the trees off, it was to revise the tree that you had. I think that we were also asking for some additional screening to be done along the back of the property in the clearing line area to fill in some of the area so the residents in that area wouldn't be affected. We were asking for some additional trees to be added in to break the view for the neighbors. To reduce the visual impacts.*

*Mr. Russo and Mr. Adler confer over the plans.*

*Mr. Dowd: I think that the last time that you were here, there was still a question about the ownership of the parcel providing access and you were trying to come to an agreement with your partners. I think that the access road parcel is owned by a different company than the subdivision and there was supposed to be some sort of an agreement. Did that ever get done?*

*Mr. Adler: Yes, there's a cooperation agreement that states we are one unit right now. They've agreed that the access parcel will be part of this project.*

*Mr. Dowd: Can we get a copy of that? We have to make sure before you start doing anything that the access is under your control, so to speak.*

*Mr. Adler: Sure. The agreement talks about some other things so if we need to, we can get a letter signed by both of us that either provides an easement or whatever language you need. We're working together now.*

*Mr. Dowd: I know that it was an issue and you're working it out with your partners as to how this was going to be controlled and who had control of it.*

*Member Quinones: This was for the entrance?*

*Mr. Dowd: Yes, the entrance is a separate parcel. And that's in the Town of Monroe.*

*Member Klare: Is there going to be any protection by the pool area?*

*Mr. Adler: We're not changing anything that this Board has approved.*

*Conversation ensued while consulting with the site plan.*

*Member Klare: There are two houses behind Lexington Hill and they're not yours?*

*Mr. Adler: Correct. That is outside of our property.*

*Chairwoman Escallier: The runoff isn't going to towards Lexington Hill?*

*Mr. Adler: No, there are a lot of catch basins that are going to take the storm water and it flows towards the detention area.*

*Mr. Russo: There will be some natural runoff from the backyards in that direction, but they've changed the direction of the high point, that's a lot further out. The driveways are all running down towards the road. The roof leaders are all tied into the catch basins. A lot of the impervious area is being brought into the drainage system so what Mother Nature puts in the backyards, will flow but because they are lawn areas, a good portion*

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should infiltrate. It's being minimized as to what would flow that way and it's probably less than what flows there now.

*Chairwoman Escallier: That's good, we need that. In regard to taking out the trees, I remember in 2014 when we had the first part of the Public Hearing, we were told that he was planning on taking out 71% of the trees and now it's at 74% of the trees. They provided us with an example of a Maple tree that could have been saved but didn't have the integrity anymore so what would be the point to try and save it? In knowing that it's going to be such a high percentage of trees that are going to be coming down, we want to make sure that the sediment is going to hold all of that because you're taking out the tree and the roots. That was a big concern, especially with that size of trees coming out.*

*Mr. Adler: I don't know the specifics of where trees are but typically the grading or regrading a site that the Board approved, and it's been engineered to get the storm water flowing to the right places. That's typically why trees are taken out because of the regrading and it really gets hard to tag a tree and try to save it when the grades are changing. And as it relates to the runoff, a SWPP (Storm water pollution prevention plan) where there will be silt fences and other construction practices that they do to minimize the runoff during construction. Afterwards, it will be fully stabilized between the impervious areas and the lawn and whatever the treatment is.*

*Chairwoman Escallier: Regarding the buffer, as you're taking out all of these trees, it would be a good idea to plant new ones in places where they are necessary.*

*Mr. Adler: Where there's a clearing line, depending on what's in there now, it could be that there's some thick growth in there. That's the positive of having the limit of the clearing there.*

*Mr. Russo: Where it's thin you may want to supplement in some trees. Someone should probably take a walk out and take a look at where you have some bare areas.*

*Mr. Adler: there's probably 75' of whatever is there today, is going to remain there.*

*Chairwoman Escallier: I understand that now is the time to be digging. It said in one of the papers that between January and March was the optimal time to do this digging because of the endangered species.*

*Mr. Russo: It's the clearing of the trees to protect the Indiana bats.*

*Mr. Adler: If the Public Hearing isn't until March, we won't be able to make that cutoff this spring.*

*Mr. Russo: November 1<sup>st</sup> through March 31<sup>st</sup> is when the Department of Conservation allows for the clearing of trees due to the Indiana bats.*

*Mr. Dowd: Do you have any idea when you'll start breaking ground?*

*Mr. Adler: Hopefully, the comments that John (Russo) has are addressed very quickly and these other comments. And we're able to get the stormwater district planned. We need to satisfy the Village Board. We want to get this project going, it's been stalled for a while. My goal is to get this approved so we can see how it's going to get phased, how to develop it.*

*Mr. Russo: Right now, we're in the process of reviewing it for the water and sewer then they're going to have to revise the plans to make sure that everything's addressed so the Village can sign off on it, so the Mayor can sign*

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*the application for the Department of Health. Then the Department of Health will review it and if they have any comments, the applicant will have to address their comments and revise the plans. In regard to sanitary water, it goes to Orange County Sewer District and also to the Department of Conservation. Basically, until they get all of their outside agencies' approvals, the infrastructure, utilities, they can't even go for subdivision approval. Then he can go for subdivision approval with the Department of Health.*

*Mr. Adler: I started the conversation with John (Russo), even though we're not 100%, if we could pre-flight this with the Department of Health or the sewer district to let them know it's coming and to get their memory back from previously when they looked at this. The same thing with the Department of Conservation. It helps when you stay in front of them all the time.*

*Chairwoman Escallier: It also helps if you keep a working list of the things that need to change on the site plan. We certainly don't want you to go through the cost of doing a revision when it's not complete.*

*Mr. Adler: I agree.*

*Mr. Dowd: This was approved on November 20, 2017, so if you went every six-months, November and May should be when you need extensions.*

*Mr. Adler: In April we received a three-month extension, then it went until August and then a six-month extension.*

*Mr. Dowd: I suggest that we extend the approval to May to get the approvals back on the November/May cycle.*

*Chairwoman Escallier: The only reason that we granted a three-month extension was because we hadn't heard from them.*

*Mr. Adler: I would hope that by May, we're done.*

**MOTION** was made by Chairwoman Escallier to extend the conditional final subdivision approval to the May 18, 2020 Planning Board meeting.

**SECOND** was made by Member Klare.

**AYE** Member Klare  
Chairwoman Escallier  
Member Kelly  
Member Quinones

**NAY:** -0-

*Chairwoman Escallier: Is everyone okay with the proposed local law?*

*Mr. Dowd: I know that the Village Board is looking to have a Public Hearing on the Local Law regarding the accessory apartments. You had the draft for a couple months and it's on your recommendation and/or suggestions before the Village Board goes to Public Hearing. Have you reviewed it, read it?*

*Member Kelly: I got back to Irma (Escallier) that I didn't have any issues.*

*Chairwoman Escallier: We didn't have any. I like that the regulations schedule refers the chapter in the Code. There is no chance for error. Everyone that worked on this did a great job.*

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*Mr. Dowd: I think that it's a remarkable improvement and everyone seems happy with the draft that we came up with and hopefully it's much clearer so if somebody wants to put these things in, we can process it and not have too many issues.*

*Member Quinones: I have a question, the minimal habitable floor area for an accessory apartment shall be 300 square feet. So basically, it's saying that the minimum should be 300 square feet? That's kind of tiny.*

*Mr. Dowd: Right. If it's a one-bedroom type setup for a single person, and also there's a maximum habitability of no more than 30% or 750 square feet. So, you can't have this huge apartment, which is what everyone's afraid of because the bigger the apartment, the more people could reside there. We didn't want it so outlandish that it became most of the house or as big as the house.*

*Mr. Hager: These numbers are based on the State regulations, the overcrowding numbers in the state regulations. They thought that originally, they had 600 square feet and in most cases that would have been more than 30% of a lot of the homes. You would have had to have a large home to even qualify so they backed it down to 300 square feet.*

*Mr. Dowd: Think of it as you needing to bring an elderly parent or parents into your home. How much space would they need? That's one criteria that we looked at. 300 square feet would be the minimum and 750 square feet or 30% would be the maximum depending on the size of the house. You don't want it to become a two-family home in essence in a single-family zone. That affects your water, sewer once you start making them into two-family homes.*

*Mr. Russo: It goes on to say if you go over the 750 square feet, it is deemed a two-family dwelling at that point.*

*Mr. Dowd: We played with the numbers quite a bit. We figured a 1000, 1500, and 2000 square foot home, how much of that should be dedicated to the accessory? Trying to make sure that the accessory didn't become more of a primary use of the house or even a second dwelling unit.*

*Member Kelly: Has the Village Board set a Public Hearing on the law?*

*Mr. Dowd: I think they want to have it in February. Hopefully, they'll get your comments before it goes to the Public Hearing so if there's something that you would like to see changed, it can be made ahead of time.*

*Mr. Hager: The thought was if you start with 300 square feet, there's a better chance that some of these will revert back to a single-family home that it was before the need for the accessory apartment. The larger the apartment is, the more work that goes into it, the less likely it is to return to its original single-family dwelling. That was a consideration in reducing the minimum size as well.*

*Member Kelly: You've had experience with this accessory use? You've followed how other municipalities have written their law as well as personal experience?*

*Mr. Dowd: Yes. We looked at how your present law works, how other municipalities did or didn't work, and find examples of what could go wrong. The Village attorney and I worked together trying to close any gaps. We don't want anyone taking advantage of this, we want it to uphold to this kind of framework because that's what the Village Board wants and make it easy to enforce without having any legal games being played when you try to bring someone up because they're in violation. We were trying to think of all the different scenarios and try to figure out how it can be done and how does the Village proceed to have it converted back or enforce it if there is*

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*a violation. The Village attorney did the final drafting of the local law, but it was because of all the different comments that we were able to get it done. With doing zoning all of the time, there's always loopholes, and we tried to have the Board close them and not leave it to Zoning Board decisions to make variances; to have it clear.*

*Mr. Hager: One of the keys is that it's become a special permitted use which now requires a Public Hearing. Now the neighbors will be informed if anyone makes this application, they'll have the opportunity to see what's planned. That was a pretty big leap from the old Code, it didn't describe it as a special permitted use so there may not have been the opportunity for the neighbors to get that notification.*

*Mr. Dowd: I know of another community that is having problems with homeowners running boarding houses. It looks like a single-family home but when you get inside, every room is a different room. Sometimes they're cooking in their room, with a little hot plate, and that could prove to be a disaster if a fire starts. The you have the air bnb, vrbo's. This is another way of regulating what happens to the single-family home.*

*Mr. Russo: Is there anything that limits the number of accessory apartments on a given property?*

*Mr. Hager: One per dwelling unit. "Maximum number of accessory apartments. There shall be no more than one accessory apartment in any single-family detached dwelling"*

*Mr. Russo: I was reading "Off-street parking shall be provided on the following basis: minimum one parking space per accessory apartment unit, in addition to the minimum spaces required for the principal dwelling unit." I could almost take it as if I had two units...I just wanted to clarify that.*

*Mr. Dowd: The single-family home required three off-street parking spaces so now they when they add the apartment, it makes four. And this could potentially become a problem. We didn't want it to become to look like a parking lot with all the additional parking spaces required, so we kept it with one additional space.*

*Member Quinones: What happens to a dwelling that has the area to convert into an apartment but doesn't the space for the additional parking space?*

*Mr. Dowd: They wouldn't be able to do it without a variance for the parking requirements. Since it's a special permitted use permit it's coming to the Planning Board first and if they don't have the required parking spaces, you would be unable to approve it. You need to have four off-street parking spaces to approve this and if they can only put in two because it's a very small lot, maybe with one in the garage and one space in the driveway then they would have to go before the Zoning Bard to get a variance.*

*Mr. Russo: You're not going to want them parking in the front yard because then it becomes a parking area.*

*Mr. Dowd: Which changes the character of the neighborhood.*

*Mr. Hager: Another thing that the Planning Board may also look at it is "The Planning Board shall notify the Code Enforcement Officer and the property owner in writing at least 21 days prior to the date of such renewal for the purpose of inspection of the premises." That's putting the onus of that notification on this Board.*

*Mr. Dowd: If you have an applicant coming before you, they have elderly parents and they want to get an accessory apartment. You give them a special permit to establish the accessory apartment. That permit lasts for one year from the date of certificate of occupancy then it's up for renewal every year. This is saying if you know*

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*that it's coming up for renewal, 21 days before you have to notify John (Hager) so he can go inside and do an inspection and make sure that it's still in compliance with it. The necessary smoke detectors, etc.*

*Ms. Singer: That could just be a spreadsheet, that's fine.*

*Member Kelly: I don't picture a large accessory apartment complex, do you?*

*Mr. Dowd: I don't think that we anticipate it because of the restrictions. It's not going to be easy to do this but if you do it, it will be according to these regulations.*

*Member Quinones: Whose responsibility would it be if an applicant comes and wants their parents to live in an accessory apartment and they have some disability?*

*Mr. Dowd: If they have to have accessibility because of disabilities, then that would be up to the Building Inspector to make sure that it's accessible.*

*Mr. Hager: It's not really a requirement on a single-family home to be accessible. The trouble with that is when you get into the accessibility codes, it's quite hard to achieve. The accessibility standards can't be achieved because it's not a requirement in a single-family home. It's different in commercial property that has to be built to a different standard.*

*Mr. Russo: If it's your family member, you're going to do your best to accommodate them.*

*Discussion regarding handicap accessibility ensued.*

*Chairwoman Escallier: I think that it was a great idea to have it for one year and let the Building Inspector inspect to see what the conditions are, if they remain the same or not.*

*Mr. Dowd: Then if you have an elderly parent and the parent passes away, then there is really no need for the accessory apartment anymore.*

*Member Quinone: I was wondering if it puts any liability on the Village if we approve an accessory apartment knowing that they're going to put someone there with a disability.*

*Mr. Dowd: That would be the homeowner's responsibility.*

*Mr. Hager: There's a five-year requirement, the idea trying to address something being built with the idea of the accessory apartment being approved and in essence being a two-family home to start with. The provision was included on existing homes it has to be occupied for five years before they can fill out an application. There's also the ability to waive that under certain circumstances.*

*Mr. Dowd: With the five-year requirement, we were talking about what happens if someone buys the house and a year later, my parents have a bad accident and we have to bring them into the home. I wouldn't be able to get the accessory apartment because I haven't been living there for five years so we talked about how to deal with that issue. It can be waived by the Planning Board if they feel that this is a unique situation and not anticipated when they bought the house.*

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**MOTION** was made by Member Kelly to recommend the Village Board to adopt the Local Law in draft form

**SECOND** was made by Member Klare.

**AYE** Member Klare  
Chairwoman Escallier  
Member Kelly  
Member Quinones

**NAY:** -0-

**MOTION** was made by Member Klare to close the Planning Board meeting of January 27, 2020 at 8:20pm.

**SECOND** was made by Member Kelly.

**AYE** Member Klare  
Chairwoman Escallier  
Member Kelly  
Member Quinones

**NAY:** -0-

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

DRAFT