

PLANNING BOARD MEETING  
SEPTEMBER 16, 2019  
7:30PM

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. APPROVAL OF MINUTES AUGUST 19, 2019
4. PL GROUP  
108-1-11  
SITE PLAN APPROVAL EXTENSION
5. HARRIMAN FAMILY DENTAL  
103-1-13.2  
SITE PLAN
6. J SQUARED BUILDERS SITE PLAN  
BEATTY CIRCLE  
102-4-6.5  
REVISED SITE PLAN
7. 38 COMMERCE DRIVE LLC  
108-1-12  
SITE PLAN

THE NEXT PLANNING BOARD MEETING IS SCHEDULED FOR  
MONDAY OCTOBER 21, 2019 AT 7:30PM  
SUBMISSION DEADLINE FOR THE PLANNING BOARD MEETING IS  
MONDAY OCTOBER 7, 2019

**VILLAGE OF HARRIMAN PLANNING BOARD MEETING**  
**Regular Meeting**  
**September 16, 2019**

*Member Klare opened the Village of Harriman Regular Meeting of September 16, 2019 at 7:30pm.*

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

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

*Absent: Chairwoman Irma Escallier, Member Juan Quinones,*

*Approval of August 19, 2019 minutes tabled due to lack of quorum.*

**PL GROUP**

**108-1-11**

**SITE PLAN APPROVAL EXTENSION**

*Present: Nobody was present.*

*Mr. Dowd: I think this is on the agenda for an extension of their approval. The applicant is under the weather and we excused his appearance. The applicant is asking for a one-year extension*

*Member Kelly: I feel that a year should be enough time to get this moving and after a year, the project should start over again. This in only my opinion.*

*Mr. Dowd: this has been approved for quite some time and before it expired, the applicant was asking for this one-year extension. To say that this would be the final one-year extension would be appropriate, if that's what the Board wants to do.*

*MOTION was made by Member Kelly to extend a final approval for one year from tonight, September 16, 2019, with no further extensions after that.*

*SECOND was made by Member Stanise.*

*AYE Member Stanise*

*NAY: -0-*

*Member Kelly*

*Member Klare*

**HARRIMAN FAMILY DENTAL**

**103-1-13.2**

**SITE PLAN**

*Present: Gary Musciano, Architect.*

*Mr. Musciano: Last month we responded to John Russo's comments and we submitted new drawings. Yesterday, I received three more comments from John (Russo) which I addressed this evening, I sent an e-mail to John (Russo).*

*Mr. Russo: The plans are going to be changed? The handicap spaces have to be relocated but one of the questions about the elevator is that the cover sheet says "future elevator"*

*Mr. Musciano: This is really a building code issue; the International existing building code tells us whether we*

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*have to have an accessible entrance or not. My interpretation is that we don't need to have one but if we do, we have the elevator to cover.*

*Mr. Russo: Right, so the handicap space would have to be moved to the back, you'll have to create a ramp to get up to the elevator.*

*Mr. Musciano: It's on grade.*

*Mr. Russo: The Building Inspector and I have gone back and forth on this and the way that we were reading the Code, given it's a medical facility, you should.*

*Mr. Musciano: You were also going to send these plans to the state and the county?*

*Mr. Russo: To the county. We did get the 239m review back for local determination. It says "We note that the new construction of the existing building was granted an area variance in 2015. We advise the Village to review this project to determine whether the proposed addition needs a variance as well, or whether the existing variance for the site should be modified to include the new addition". The new addition does not require a variance and that was their only comment. I didn't receive the short EAF.*

*Mr. Musciano: That was submitted in August.*

*Ms. Singer: I have it and will e-mail it to you tomorrow morning.*

*Mr. Russo: Ok, that and the oil tanks. You can get the closure report to the Building Inspector. So, it's just a matter of revising the plans to reflect that it's not saying, "future elevator" and the parking stalls have been moved.*

*Member Kelly: Another question, handicap access to the dental office, that's not required? Right now?*

*Mr. Musciano: Not under the existing building code. Our addition doesn't have any entrances on it, it's just an internal addition. It doesn't because it's up on a steep grade.*

*Member Kelly: It's not on a steep grade, there's steps. And there's no entrance for handicap people?*

*Mr. Musciano: No because it's on a very steep grade. We can't even get an incline to work so we're going to go around the back, which is actually the basement level and put a limited use elevator there.*

*Member Kelly: How did handicap people get in the building before? How do you get approval for a building with no access for handicap people? All this time, it's never had access.*

*Mr. Musciano: No, it never had one.*

*Mr. Russo: The building was probably built before the code was in enforcement. I don't know how long that's been in operation, but the handicap accessibility codes started around the late 70's early 80's. So, anything before that was already in existence and doesn't have to be handicap accessible.*

*Member Kelly: So if a lot of these buildings around don't have handicap accessibility but they were built before 1990, they don't have to adhere to the law?*

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*Mr. Russo: If they're making conversions and depending on where they're making them, and the percentage of the conversion, they have to comply.*

*Member Klare: Is it an elevator or a lift?*

*Mr. Musciano: It's a LULA Elevator. It's a small elevator. It's enclosed.*

*Mr. Russo: We're still waiting to hear from NYS Department of Transportation. If we don't hear from them by next month, we can take action.*

**J SQUARED BUILDERS**  
**102-4-6.5**  
**REVISED SITE PLAN**

**Present:** *Michael Morgante, Engineer, Arden Consulting Engineers, PLLC; Paul Edwards, J Squared Builders, Applicant.*

*Mr. Morgante: Since we were last here, we received John (Russo)'s comment letter and I think that we've addressed all of the comments, maybe one or two left to address. In the September 13, 2019 letter, any changes to the plan would be including invert elevations for the 12" culvert pipe that crosses Beatty Circle for both existing and proposed extensions, that's not a problem, we'll put that on the plans. We will need to include the small utility easement that we put in on Lot 3 for the existing utility pole there, that needs to be included on the metes and bounds description that accompanies the private road maintenance declaration in the utility easement declaration. If those responses are acceptable, we would proceed then to take care of comment #2 (Orange County Sewer District No 1 will need to approve the sewer connection to their system, A copy of the approval letter shall be provided to the Planning Board. The applicant's consultant has noted that an approval letter will be provided to the Planning Board in the near future.) We are going to approach Orange County Sewer to obtain an approval letter for connection to their system. I think the balance of the questions on the comment letter would be directed to Mr. Dowd as they relate to the review of the private road maintenance declaration. I believe there was some e-mail communication between you and the our attorney, Bob Greene.*

*Mr. Dowd: Yes, there was just one little change that I asked them to make and they made it this afternoon. I am good with the private road maintenance declaration agreement as it stands now.*

*Mr. Morgante: I have a copy of the agreement with the changes that were made.*

*Mr. Russo: And we're going to file a new plat with the County. We're actually merging lots.*

*Mr. Morgante: We take no exception with that. We'll file a new plat with the County Clerk. We would be interested to know if the Board would be willing to take action, maybe provide a conditional final approval on the plans as they relate to what's before us with Mr. Russo's office review the final plans to make sure that I include any changes that on them prior to final signing by the Planning Board.*

*Mr. Dowd: We should do the SEQRA Lead Agency since the only other involved agency is Orange County Sewer District.*

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*Mr. Russo: I think that we didn't go forward with that because of the lots, the two-family home. I would still move forward with Orange County Sewer District.*

**MOTION** was made by Member Kelly to declare the Village of Harriman Planning Board as Lead Agency  
**SECOND** was made by Member Stanise.

**AYE** Member Stanise  
Member Kelly  
Member Klare

**NAY:** -0-

**38 COMMERCE DRIVE LLC**  
**108-1-12**  
**SITE PLAN**

**Present:** Lawrence Torro, PE, CivilTec Engineering & Surveying.

*Mr. Torro: Since the last time that I was before you, we provided some additional information. There was a narrative provided more about the end use of the property. We made revisions to the long form EAF and we added some information to the plans. We received a comment letter from John Russo with additional comments to clean up the plans so there are items that still need to be addressed. There were a few typos that needed to be cleaned up before you can submit them for Lead Agency type things. Regarding the retaining wall, do you need the design of that at this point?*

*Mr. Russo: Eventually we are going to need that. It doesn't have to be at this point and time, but I would like to know what type of system is being used, if there's going to be grid in it because you're very close to the property line. My question is, to what extent are we going to have to go with this grid? Is it going to be an easement on the neighboring property to install this? Some sort of preliminary design at this point and time. Once we get further along, it would be nice to have a design or at least prior to issuance of a building permit, if the Building Inspector is in agreement that a final retaining wall design be presented at that time for review.*

*Mr. Torro: I would anticipate the final design being on the plan. I meant moving forward with Lead Agency type items.*

*Mr. Russo: That would be great. I just want to know what type wall system that you're going to be using and if you're going to use grid, if any, depending on the type of wall. This way if there's construction easements or permanent easements that have to be acquired; the Board is aware of that.*

*Mr. Torro: I had a question about the lighting plan, they're still trying to limit the spillage. We have tried with shields, but they're struggling with it.*

*Mr. Russo: In the back it's still a little excessive coming off. Maybe change the fixture itself? Or lowering the light poles down a little bit? I think some of them were at .3 in some areas off the property; usually we're looking for 0. I'm afraid that someone might complain about the extent of that. Is Mr. Torgersen is moving forward with Army Corp?*

*Mr. Torro: Yes, he's getting that application together. And when he gets that completed, we will include that in the plans. You also had a comment about the renderings? All four sides?*

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*Mr. Russo: Yes, usually the Board likes to see the entire structure. I have a comment about the finished floor elevation on Sheet 3 of 10, 526?*

*Mr. Torro: It's supposed to be 528, it was a typo. The front elevation is what the spot elevation should be 527.5. it was a 2' step, a bit of a problem. We brought it up a lot more than we anticipated in order to get the drainage out the back we had no choice. Along with the drainage, you have a comment regarding the infiltration due to soil testing.*

*Mr. Russo: You'll have to set that up with our office and we'll come out to observe the infiltration and testing when that's done. It'll have to be at the bottom of the system. The comments regarding the water fixtures, on Sheet 10, the Village Code actually outlines what water fixtures have to be used. Do you know when Mr. Torgersen is going to submit?*

*Mr. Torro: I am going to talk to them soon and try to get something definitive. Army Corp has confirmed the wetlands so that's one good step.*

*Mr. Russo: Did they issue a JD (Jurisdictional Determination) letter on that?*

*Mr. Torro: I will have to ask Mr. Torgersen, if they have, I haven't seen it yet.*

*Mr. Russo: If they have, submit that to the Board so that we have that. I know that you have the exit door on the back of the building, State Building Code does require that you have a maintainable pathway/walkway out to the parking lot.*

**DISCUSSION**

*Member Klare: If we don't have a quorum here, could we get a vote over the telephone?*

*Mr. Dowd: No. The only way you can vote for someone who is not present is by video conferencing. Where you can see them, they can see you and everyone else can hear the conversation. Even the audience can see/hear what's going back and forth. Other than that, no, you can not vote by proxy, or absentee.*

*Member Kelly: Do the minutes have to be approved?*

*Mr. Dowd: I would say yes. The fact the you approve them a month later doesn't mean that they're not supposed to be online or accessible within 14 days of the meeting. The draft minutes have to be ready at least 14 days from the last meeting. Usually you want to control the content of your minutes so if you read them and don't see any mistakes with them, I would suggest you approve them. If you see mistakes, you should let Barbara (Singer) and the Board know that you want amendments.*

*Ms. Singer: I was at a class and the attorney was presenting about minutes and what was necessary to put in minutes and what wasn't. He said that the minutes had to be accessible to the public within 14 days of the meeting, even in draft form, which presently I don't do. I put them online the month later, after they've been approved. This attorney said that they don't have to be approved; if there's anything that needs to be altered in the minutes, that should go in the following month's minutes as corrections.*

*Mr. Dowd: He's right about the 14 days after the meeting the minutes being accessible. If you post your minutes online, the draft minutes should go online within 14 days. The actual process of approving minutes, that is almost by tradition. Legally, is it required, probably not but it's good for the board to do that because then they are*

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*saying the minutes that you've recorded for them reflect accurately what was said at the meeting. And to correct any mistakes. Those records are retained forever, you can never destroy the minutes. At any time in the future that you have to go back and find out what was said, those minutes become the record. The recording is gone after four months. If there is any dispute, the minutes are what you're going to relay upon so if they're not consistent with what the Board intended or consistent with what they say they approved, or inconsistent with the resolution of approval, then you have some real problems on your hands.*

*Ms. Singer: He also said that legally only the motions and resolutions had to be recorded.*

*Mr. Dowd: That is correct. Every Board has their own opinions on whether you have verbatim minutes, sparse minutes or somewhat detailed minutes. Through the years, I have had gone through this with different municipalities, some want it as detailed as possible. I don't think that's a great idea because sometimes things get said that maybe shouldn't be said. The minutes are actually the Clerk's minutes. I have had Board's try to tell the clerk to add things into the minutes that were not even said at the meeting. Because afterwards, they thought I should have objected that, and I didn't and they wanted to put an objection on the record. You can't order the clerk to change the minutes to something that didn't happen. Most of the time, the clerk records the meeting, transcribes, shows the Board and sometimes the Board says that's not what I said, but then you can go back to the tape. It's important that those perpetual records of the minutes are accurate. The best way for it to be accurate is for the Board members to look at them and approve them. When you post the minutes to the website, it should say draft minutes within 14 days of the meeting. Next month if they're approved without changes, you can just keep it up there and change it from draft to approved. That's what I suggest that you do and if there's an executive session, it's 7 days. If there's some action that's taken out of executive session or in executive session, that's an even harder thing to comply with. Another thing with the tape recordings, sometimes are unintelligible as to what's being said, especially when people are talking over one another. That's another reason why it's important for the Board members to read the minutes and say we were going back and forth about this but ultimately, we decided that this is what the motion was going to be and this is what we said, what we told the applicant to do and sometimes clears up that unintelligible comments. There are no minutes in executive session unless there's an action taken in executive session. If there's an action taken in executive session, then those minutes of that action have to be posted within 7 days. I would not advise you to put anything else but the action.*

**MOTION** was made by Member Kelly to close the Planning Board meeting of September 16, 2019 at 8pm.

**SECOND** was made by Member Stanise.

**AYE** Member Stanise

**NAY:** -0-

Member Kelly

Member Klare

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