

# VILLAGE OF HARRIMAN ZONING BOARD OF APPEALS

## Public Hearing

February 6, 2013

Page 1

Chairperson Laurine Miller opened the continuation of the public hearing meeting from December 5, 2012 of the Village of Harriman Zoning Board of Appeals at 7:35pm.

### **ROLL CALL:**

Present: Chairperson, Laurine Miller; Board Member Colleen Farrell, Carol Schneider, Edward Ford, Charles Crover; Lisa Felicissimo, Board Attorney; Ronald Walker, Building Inspector, Jane Leake, Deputy Clerk/Board Secretary.

### **PUBLIC HEARING:**

#### **DAVELINE REAL ESTATE INC.**

Section 101, Block 2, Lot 3

In the B-2 District

Parking Variance

**PRESENT:** Madelyn Goldberg, VP Daveline and Erik Boe, Engineer for LAN Associates.

Mr. Boe addressed the Board explaining the confusion on the numbers from the previous plans. Prior to the last meeting we had done an interior set up plan. So we took it upon ourselves to change the numbers to the net space which we later realized was not the right approach. So we updated this chart to include the net retail space for that space which we thought would be more appropriate for the parking calculations. We then talked with the Building Inspector who informed us otherwise. So all we have done really on this revision, is we changed the numbers back so the close numbers, which of course is the entire space to the outside walls. We also left on the net numbers just for reference so you can see what the numbers were. So the numbers are basically back to the way it was two revisions ago, which is now an existent space of 65 and a proposed required would be 127. That includes the four spaces but does not include the vacant retail space in the back. That is our understanding on what you guys had wanted.

Mr. Walker asked are the square footage gross or net?

Mr. Boe replied all the square footage is now gross.

Ms. Farrell stated it is my understanding that there would be room for some additional parking?

Mr. Boe responded there is fairly some decent amount of room on this site if necessary, which we have shown. It was either the Planning or Zoning Board who requested that additional parking be shown as a future conceptional parking so we left that on when we submitted three revisions ago. It showed parking all the way back to here and it was a substantial amount of parking and that was a little bit confusing, so we were asked to remove that. But as you can see all this area in here can be used for future parking if necessary. But, my client doesn't really need it at this point because she feels her parking is adequate. I have been to the site a number of times and I have never seen it full. It seems like it functions well. It seems adequate the way it is.

## **VILLAGE OF HARRIMAN ZONING BOARD OF APPEALS**

### **Public Hearing**

**February 6, 2013**

**Page 2**

Ms. Farrell asked if in the future if there were additional parking added would it be safe for parking in the back in the grassy area.

Mr. Boe replied no, the grassy area would be where we would have to expand. The paved lot is built out to what it can hold. If more parking would be added the grassy areas to the East and the North would have to be utilized for parking.

Ms. Goldberg stated in discussion with the Planning Board prior to coming to you for the variance it was discussed that if we were to extend the parking lot coming in from N. Main Street we have a whole grassy area here. If we were to black top that in addition to it enough required spaces to fill the vacancies the other store which is formally 3G's we would have enough space here and we would not affect a private area. The area back here, right now there are trees, grass and even though the Ramapo River runs behind it, currently we have no flooding whatsoever and so this is a win, win situation the way that it is. This does not affect that.

Ms. Felicissimo asked have you gone back to the Planning Board since our last meeting?

Ms. Goldberg replied I can't go before them until the variance is approved.

Ms. Felicissimo responded you are still talking about the Power Tool retail establishment.

Ms. Goldberg replied right now it is just a retail establishment. We do not know if they are viable any longer.

Ms. Felicissimo asked is there a type of retail establishment that would change the parking requirement?

Mr. Walker responded no. They are also on for Monday night with the Planning Board.

Ms. Felicissimo stated but you are not sure what is going in there right now. We do need some indication on what is going in there, right?

Mr. Goldberg replied we are going to keep it as a retail establishment. They have not made a commitment yet.

Mr. Walker responded it should be retail and retail is retail.

Ms. Felicissimo stated to go over the five elements of a variance with the applicant.

Ms. Miller stated we have given you a copy of the five elements of a variance the last time, which I will read to you.

Ms. Goldberg answers were no to #1, no to #2, yes to #3, no to #4 and no to #5.

Mr. Crover asked are all 65 spots shown on the site plans?

Mr. Boe responded yes, and counted them all on the site plan map.

## VILLAGE OF HARRIMAN ZONING BOARD OF APPEALS

### Public Hearing

February 6, 2013

Page 3

Ms. Felicissimo stated presumably you go from here to the Planning Board. When a use changes here you know you might ultimately wind up back needing another variance. You realize you might wind up back with the parking spaces and on whatever the Planning Board should come up with in there review.

Ms. Goldberg replied I'm totally aware.

Ms. Felicissimo commented I'm assuming this is the only variance you would need.

Ms. Goldberg commented they gave it a very close look. I came before them twice and they were very, very specific that they wanted to approve it, but the parking variance was the one issue that was holding everything up.

Mr. Boe stated any further use, please correct me if I'm wrong, as long as it remains Retail it shouldn't require a new variance, accurate.

Ms. Farrell commented yes, unless she rents out the vacant spot. Except for number space four.

Mr. Boe responded but with regards to this space and any of the other spaces we accounted for.

Ms. Felicissimo responded as long as the use stays the same. She doesn't ever have to go back to the Planning Board when she changes a tenant.

Mr. Walker replied as long as it is Retail.

Ms. Felicissimo responded what happens if it is a much more intense retail use?

Mr. Walker replied they only require 150 square feet for retail.

Ms. Farrell commented that was always the issue here. That was my concern from the very beginning not knowing what was going in there.

Ms. Felicissimo responded I'm certain that the Planning Board is going to put some conditions on there. We will have certain conditions but I'm sure the Planning Board would have conditions that relate to site use, parking and things of that nature and I'm sure they would put a provision in there that would result in a turn if something drastic changed at that site.

Mr. Bowe stated I've seen other ordinances that are more specific in regards to retail but unfortunately the more vague the ordinance is written the more difficult it is to enforce it.

Individual discussions broke out.

Ms. Felicissimo asked in the Public Notice there was an original suggestion that 140 spaces were required but obviously now you decided to determine that 127 are required. That is okay because they are asking for less?

Mr. Walker replied 127 were required.

Ms. Felicissimo responded but the Public Hearing says 140 were required.

**VILLAGE OF HARRIMAN ZONING BOARD OF APPEALS**  
**Public Hearing**  
**February 6, 2013**  
**Page 4**

Mr. Crover commented that was because of that vacant Retail space. Because the vacant square footage is not included in the 127.

Ms. Felicissimo replied so that was a mistake and it is okay because she is seeking less of a variance than more.

Mr. Crover stated she is not going for that vacant space, but once space 4 gets rented you are going to have to come here and try to get another variance.

Ms. Goldberg replied it has been vacant for over a year. So we would have to come before the Planning and Zoning Boards and we are well aware of that.

Mr. Crover responded if the use changes. Here we gave a variance for the church to go in there, but that didn't happen.

Mr. Walker commented if you rented the spot out and needed 12 more parking spaces you would just go before the Planning Board showing where you are going to put them. You wouldn't have to go back to the Zoning Board.

Mr. Crover replied in other words she would only be required to add the spots necessary for that space if we grant the variance.

Ms. Farrell asked do you know what that amount of spots are?

Mr. Walker replied 50 square feet would need 12 spots.

Mr. Crover stated if it was retail, worst case scenario?

Mr. Boe responded that would be 13 spaces.

Ms. Farrell replied it wouldn't be any less than that.

Mr. Crover responded it could be less than that, but it wouldn't be more than that.

Mr. Boe commented it would depending on the use.

Mr. Crover replied but there is no more use that would require more than that.

Mr. Walker responded an Office Building 200 square feet.

Mr. Crover replied so that would be less parking. There is no use that would require more than 15 spots.

Mr. Walker commented no there's only the two and there is more than enough room.

Ms. Goldberg replied as we stated, right now we have 2 vacancies and even when there weren't any vacancies we never had an over flow with parking.

**VILLAGE OF HARRIMAN ZONING BOARD OF APPEALS**  
**Public Hearing**  
**February 6, 2013**  
**Page 5**

Discussion broke out.

Ms. Miller stated as you know we had to get in touch with the County and the 239 indicated that whatever we decide would be okay with them. Do you have any more questions or comments?

There being no further discussion, a motion was made by Colleen Farrell to close the Public Hearing and seconded by Edward Ford. All in favor.

Public Hearing was closed at 7:55pm.

Respectfully submitted: \_\_\_\_\_  
Jane Leake, Deputy Clerk/Board Secretary

# VILLAGE OF HARRIMAN ZONING BOARD OF APPEALS

Regular Meeting

February 6, 2013

Page 1

## Regular Meeting

### ROLL CALL:

Present: Chairperson, Laurine Miller; Board Member Colleen Farrell, Carol Schneider, Edward Ford, Charles Crover; Lisa Felicissimo, Board Attorney; Ronald Walker, Building Inspector, Jane Leake, Deputy Clerk/Board Secretary.

Ms. Miller opened the meeting stating a decision on Dateline Real Estate. Comments?

Ms. Farrell replied no as long as it is addressed that they would come back with the vacant spot.

Mr. Crover commented not necessarily to us.

Ms. Farrell responded no not to us.

Mr. Crover replied they would have to go before the Planning Board and they would have to be addressed one way or another either by coming back for a variance or putting the parking in.

Ms. Farrell stated right.

Ms. Miller stated we need to make a motion to accept the decision. To grant the requested area variance to allow for 65 proposed parking spaces where as 127 are required.

Mr. Crover responded I will make a motion that we grant the area variance for 65 parking spaces instead of the required 127 for plans with the vacant space as shown.

Ms. Felicissimo commented if you want to put any conditions on it you should do that before you vote on it. There are several conditions that they would have to go back to the Planning Board for their approval.

Mr. Crover stated that was my question before. The way that I interpreted your answer is that we don't have to put that condition on it. They would have to go to the Planning Board because that space is vacant.

Ms. Felicissimo responded this variance would be contingent on their compliance with all the Planning Board conditions as well. So if they go to the Planning Board and get there approval and they don't comply with their conditions this variance is useless. In another words you need all your municipal approvals and you have to comply with all your municipal approvals. That's the law.

Mr. Crover asked is that a condition we need to announce now or are you going to write that in?

Ms. Felicissimo replied well I am going to write it in if you so desire it to be.

Mr. Crover stated but dealing with the vacant building we don't need any condition on that because it has been vacant for a year therefore, they are required to go before the Planning Board.

**VILLAGE OF HARRIMAN ZONING BOARD OF APPEALS**

**Regular Meeting**

**February 6, 2013**

**Page 2**

Ms. Felicissimo commented know this decision renders nothing in that space and probably will just reference that there is a 4<sup>th</sup> vacant space.

Ms. Miller stated that Colleen Farrell second the motion. All in favor. All AYE

Ms. Goldberg commented will the Planning Board be advised of this because I have to meet with them on Monday.

Ms. Felicissimo stated I'm going to draft the decision in probably a couple of days. I can tell you it won't be written by Monday. You could let them know that it was granted. It is in the minutes. The secretary is here she can tell them and if the attorney has any questions he can call me.

Ms. Miller stated next on the Agenda is approval of the December 5, 2012 and January 2, 2013 Minutes.

Ms. Farrell motioned to approve the minutes of December 5, 2012.

Ms. Schneider stated she had a correction on the January Minutes. In the first line where it says January 2<sup>nd</sup>, it should read December 5, 2012.

Ms. Farrell motioned to approve the minutes of January 2, 2013 with the one correction.

Mr. Crover seconded the motion to approve the minutes. All in favor.

There being no further discussion, a motion to close the meeting was made by Laurine Miller and seconded by Carol Farrell. All in favor.

Meeting was closed at 8:05pm.

Respectfully Submitted: \_\_\_\_\_  
Jane Leake, Deputy Clerk/Board Secretary