

**Village of Harriman
Zoning Board of Appeals
July 2, 2014
7:30pm**

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Call to Order

- Chairperson Laurine Miller called to order the Zoning Board of Appeals Regular Meeting at 7:30pm on July 2, 2014 at the Village of Harriman Hall located at 1 Church Street, within the Village of Harriman, New York.

Roll Call

The following persons were present:

- Laurine Miller – Chairperson
- Colleen Farrell – Member
- Carol Schneider - Member
- Ron Walker – Building Inspector
- Jane Leake – Deputy Clerk/Secretary

Also Present

- Joe McKay – Village Attorney

Absent

- Chuck Crover - Member

Adoption of Minutes

- **Motion** to approve the minutes from July 2, 2014 Regular Meeting was made by Member Farrell and seconded by Member Schneider. 3 Ayes. *Member Crover absent.*

Samuel Kaufman

102-4-1.222

Interpretation of Code for a Warehouse in a B-2 Zone

Present: Mr. Joseph Haller – LS Land Surveyor & Mr. Kaufman proposed property owner

Mr. Haller addressed the board stating we have a situation in which Mr. Kaufman would like to build a 10,000 square foot building and he has been denied by the Building Inspector due to, what I believe are grey areas in the Code. He would like to take his sons business that is operating in the Village of Harriman right now, which is a rental property and put it in a building they would like to put up for themselves. He is renting 5,000 square feet and he is willing to build 10,000 square feet. I think that is the minimum allowed. His business will grow. There are already a few people working there and if he gets the opportunity to put up

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this building he will probably create another 3-4 jobs on top of the other jobs that are already there. I just took a tour of the existing business that his son is running and took a look at the property we are talking about which is by Lexington Hill and Freeman's Auto Body. What the man is talking about is putting a building that is similar to a stone's throw of that site. What the business is; they are an authorized Amazon reseller where they get shipments from Amazon, process them and ship them to other locations in the Country. To me, I would call that light processing which is under item #6 in special permitted uses. We are hoping that you folks will agree with that interpretation so that Mr. Kaufman could actually construct the building he would like to.

Ms. Schneider asked he is an authorized Amazon?

Mr. Kaufman stated my son opened the business about three years ago and now he is making about 5 – 600,000 dollars a month. If you look up Best4Best by Amazon you will see five stars with no complaints. The Building Inspector can witness that because we rent out the space and it didn't have a CO so whatever he needed, within 2 hours later, we supplied him with everything, all the paperwork. I am a Licensed Real Estate Broker and for the last 20 years I run the Ambulance Corp at KJ. I am very professional. I have a lot of professions. I go with 100% the Code. I filled out the application because my son is right now at 190 Route 17M renting 5,000 square feet and why should he pay rent if he can build his own building (10,000 sq. ft.). It is similar to 190 Route 17M. With permission from you folks to see if it is permitted with a 10,000 square feet warehouse. The maximum height is 20,000 square feet.

Mr. Haller commented anything he builds would be designed and engineered to all the proper standards it is just a question of getting permission.

Ms. Miller asked would your son move his business over to the building you are building?

Mr. Kaufman replied he would move it over or extend. There and stay here.

Ms. Farrell asked is that the only thing you are going to be doing in that building?

Mr. Kaufman replied yes.

Ms. Farrell stated just the electronic piece?

Mr. Kaufman replied that is it.

Ms. Farrell asked you are not branching off to anything else?

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Mr. Kaufman replied once a day the UPS truck comes and once a week the Federal Express truck comes.

Ms. Schneider asked when you say once a week the truck comes, is that a tractor trailer?

Mr. Kaufman replied not a trailer, a truck.

Ms. Schneider asked like a box truck?

Mr. Kaufman replied a box truck.

Ms. Farrell asked you don't have a license as a seller so you're not retail?

Mr. Kaufman replied it is not retail. Not at all.

Ms. Farrell asked I'm just trying to understand. You work with Amazon. You are independent. Amazon doesn't send you the product do they?

Mr. Kaufman replied they hold the product for me.

Ms. Farrell asked so they send you the product?

Mr. Kaufman replied sometimes they send it to me and sometimes I'm getting it from independent. I'm not a division from Amazon.

Mr. McKay asked you fill orders for Amazon, is that what you mean? People go on line, buy some things from Amazon, then you gather those things together and send them out?

Mr. Kaufman replied yeah.

Ms. Farrell asked you are not putting the stuff together? It is already put together? You are just boxing?

Mr. Haller replied he is not manufacturing anything.

Ms. Farrell stated I'm just trying to understand. He is not building anything there. He is just taking something in a package. I don't fully understand it myself. I think some of it may come from Amazon and some of it comes from other electronic manufacturers, but it is a finished product when it arrives there.

Ms. Schneider asked what if it has to get returned for some reason because it is broken? What happens to those electronics? Where does it go? Does it go to you? Does it go to Amazon?

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Mr. Kaufman if it is shipped right from Amazon, Amazon would get it.

Ms. Schneider stated what I am saying is, if I buy it from you and I take it home and it doesn't work and I have opened the packaging. Now where do I send that back to?

Mr. Kaufman replied we give you a label and then UPS will bring it back to us.

Ms. Schneider asked to you?

Mr. Kaufman replied if it ships from here.

Ms. Farrell stated that sounds like you are a retailer to me.

Ms. Miller commented you're the middle man.

Mr. Kaufman replied the middle man for Amazon.

Mr. Haller stated Amazon is the retailer he is just point of delivery that is what it comes down to.

Ms. Farrell replied I understand, I am just saying. Do you sell it on any other site or just Amazon?

Mr. Kaufman replied just Amazon.

Ms. Farrell stated the only reason I'm saying this is because I know it goes to Amazon. If there is something wrong with the product it is coming back to him not back to Amazon.

Mr. Haller replied if he ships it out. He gets it back.

Ms. Farrell responded that is what I am saying.

Ms. Schneider asked if it is broken and they return it back to you, what do you do with it? How do you dispose of it or recycle it?

Mr. Kaufman replied it all depends on what it is. Sometimes it is not worth to do anything with it. It's garbage. If it is \$10 or \$5 whatever it is not worth it or we ship it back to where we got it. We don't have that much repairs at all.

Mr. Haller asked what is your percentage? Is it less than 1%?

Mr. Kaufman replied much, much less.

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Ms. Schneider stated you can't just take electronics and throw them in the garbage. There are environmental issues you have to think about.

Mr. Kaufman replied right.

Ms. Schneider stated that is why I am asking you because you say you put them in the garbage.

Mr. Kaufman replied not electronics or items that cost \$50.00 or more. We are talking about maybe a cellphone cover. Small things.

Ms. Farrell stated what Carol is saying and I saw on Amazon, they sell higher end electronics (ex: TV's).

Mr. Haller replied higher end stuff I'm sure is going to go back to where it came from for a refurbish or refund for them. I'm sure he is not going to take a 50" TV and throw it in a dumpster.

Ms. Farrell responded I know you are sure, but I'm asking him because you said you weren't sure what he actually does.

Mr. Kaufman replied no, we are not putting them in the dumpster. What has to be put in the dumpster, which is legal, we will do it. We comply too the law 100%.

Mr. Walker asked do you do TVs? I thought it was the smaller stuff you do?

Mr. Kaufman replied we don't have TV's or computers. We just have tablets.

Ms. Farrell responded these are the questions we have to ask. We are trying to understand what the business is because we have to decide.

Mr. Walker stated if it is tablets or stuff, he can send it to the distributor who sent it to him stating that he has so many pounds of disposable electronics.

Mr. McKay asked Mr. Haller who is Mr. Turro?

Mr. Haller replied Mr. Turro is my business partner who is on vacation this week. I'm here covering for Mr. Turro.

Ms. Farrell asked Mr. Austin owns the property, correct?

Mr. Kaufman replied correct.

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Ms. Farrell stated I'm assuming you are going to buy the property?

Mr. Kaufman replied yes.

Ms. Schneider asked what time does your business close for the day for shipping purposes?

Mr. Kaufman replied 5pm.

Ms. Farrell asked so it is 9 – 5pm or 8-5pm?

Mr. Kaufman replied 9 – 5pm.

Ms. Farrell asked Monday through Friday?

Mr. Kaufman replied Monday through Friday.

Ms. Farrell asked no weekends?

Mr. Kaufman replied no.

Ms. Farrell asked what about during the busy seasons, holidays, do you have more trucks coming in? Less trucks?

Mr. Kaufman replied it will be the same trucks, but it may be twice a week instead of once a week.

Ms. Farrell responded okay.

Mr. McKay asked you ship daily, right?

Mr. Kaufman replied yes.

Mr. McKay stated I believe one of the questions is; it is usually UPS or Federal Express, how many trucks come to ship out on a daily basis?

Mr. Kaufman replied one truck from UPS.

Mr. Walker stated it is usually once a day at the same time.

Ms. Miller asked when a truck delivers they will pick up items from you to take away too?

Mr. Kaufman responded yes.

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Ms. Miller stated and you were saying about employees earlier, that means you have to have parking spaces for your employees.

Mr. Kaufman replied we will definitely have parking spaces for the employees.

Ms. Schneider asked how many employees do you have right now?

Mr. Kaufman replied right now, including my son, we have 4.

Ms. Schneider asked how many parking spots will he need for 10,000 square feet?

Mr. Walker replied 1 spot per employee, plus 1 per 1,000 square feet of interior/exterior (per Code Book).

Mr. Farrell asked how does that work Ron, if he increases his business there's going to be less room out there?

Mr. Walker responded when he designs the building he has to base it on the square footage of the parking lot.

Ms. Schneider asked how big is the property?

Mr. Walker replied is it 1.3 acres, is that what's there?

Mr. Haller responded it says 1.1.

Ms. Farrell asked because it is right next to a County Road does he need a referral?

Mr. McKay replied actually this would be a Type II Action under SEQRA. While we were sitting here, I just doubled checked. The applicant didn't submit an EAF, which I think would answer some of the questions you have. But this is a Type II Action that is just an interpretation of the Code so although SEQRA applies, you would designate yourself as lead agency, classifying the action as a Type II and at that point your SEQRA review is done because Type II Actions are presumed to not have an adverse impact on the environment. This is just for your interpretation. That is it, SEQRA review is done, so they wouldn't need to submit an EAF for this. You may want to ask them for more information if you truly have questions that they haven't answered here tonight. But there is no EAF required and the environmental review is none. Ordinarily because it is on a State Road it would require a referral, but because it is just an interpretation there is no referral requirement. It is not for a variance, it is not for a site plan, it is not for subdivision approval so it doesn't fall into categories of a 239m referral.

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We would referral it if it was related to an adoption of a comprehensive plan amendment, go through a local law town ordinance, issuance of a special use permit, site plan approval use for area variances. Based on that, I don't see that it falls into a category that would require a 239m review. So essentially, because normally you are looking for more information, right. What does the County have to say about this other than other agencies that have to weigh in? Because this is an interpretation it is very limited. It does not require a 239m and it doesn't even actually require an EAF. I guess you could ask just for information purposes, because we are making a SEQRA determination you might want to ask for one. Again, the EAF would really just be questions concerning environment and presumed not to have any adverse environmental impact. If you think the applicant needs to supply more information I would just simple ask that. I know over here we are asking for the Building Inspectors denial, but the question would be, I don't know if the Building Inspector has any comments. Obviously the denial was issued because it is not (Mr. McKay was interrupted by Mr. Walker).

Mr. Walker replied they are calling for a warehouse and it doesn't really say warehouse. That is why he came in to find out would you consider that in part of the definition, light processing manufacturing as a warehouse?

Mr. McKay stated right. We can do it if you think this is light processing, it would be permissible. If it is manufacturing, it is not.

Ms. Farrell asked Ron, the building they are using now what is that zoned for?

Mr. Walker replied it was zoned for a warehouse because that is what was there. Actually where they are now was a machine shop and I don't know if they came here or went to the Planning to deem that okay. They can store where it was a warehouse. They were actually storing stuff there. I don't know when, maybe 5, 6 or 7 years ago.

Ms. Farrell asked but isn't this stuff being stored there as well.

Mr. Walker replied well it was a machine shop. He had machines and stuff in there where he repaired stuff. So it wasn't an actual warehouse where they were storing stuff. The board determined that it was alright.

Ms. Farrell asked how long is the stuff stored in the facility before it is shipped out?

Mr. Kaufman replied 2. In and out.

Ms. Farrell asked how long does inventory sit in the warehouse?

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Mr. Kaufman replied it all depends. If it is a bargain, say 500 pieces at once, it will go out within a week. If we buy just limited, it goes out the same day or 2 days. It depends on how we buy.

Ms. Farrell responded I understand.

Mr. Walker stated maybe it is a good idea if they come down to your son's shop and see it.

Ms. Farrell replied we have done that in the past.

Mr. Walker stated so you can get an idea. He may have a lot of cardboard boxes stacked because he is going to need them all the time.

Ms. Farrell commented that does make a difference because if inventory is sitting in a facility for a very long time, it could be considered a warehouse?

Mr. McKay replied that is a good point.

Ms. Farrell stated I would like to know and I would like to see something. Could we ask for some additional documentation of the business that they currently have? Because I understand what you are saying but we have to make a decision and we ask this of everybody. What I am hearing is you get a truck load of inventory and then it sounds like your facility is empty in two days.

Mr. Walker responded it is several. They don't just sell one.

Ms. Farrell stated that is the point I'm making. If you buy bulk of phone covers and bulk of kindles and they are sitting for 3, 4 months, 5 months before you deplete the inventory.

Mr. Walker asked what would be a typical order be?

Mr. Kaufman replied the maximum, the turn over, is 2 months. That means when he is getting it and shipping it and he getting to receive the money and Amazon is paying every 2 weeks that is the way it works, because they are paying to Amazon. Amazon is like a credit card. So the maximum is 2 months.

Ms. Farrell asked two months that particular inventory sits in that facility?

Mr. Kaufman replied it all depends. If it is a hot item it can come in one day and then the next we don't have enough inventory.

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Ms. Farrell stated I am trying to be very careful. I am trying to make sure the difference between the processing of it and the warehousing of it because warehouses are not permitted in that district. So I am trying to get a full understanding of the difference between them. That is why we have these questions. It may be helpful to go and see the other facility. I don't know what the other board members feel.

Ms. Miller replied I would like to see it.

Ms. Schneider replied me too.

Ms. Miller stated we can make an appointment to go.

Mr. Kaufman stated sure any time. Starting tomorrow - any day, any time. Just knock on the door.

Ms. Farrell asked is it right on 17 there or behind 190?

Mr. Walker stated between the tire store and the yellow building.

Ms. Farrell replied there is something in the front, what is in the front part of that?

Mr. Walker responded it is another building that she owns, warehousing in the front and the machine shop that was in the other building moved over there, but now they are both empty.

Ms. Farrell asked what were they doing that was warehousing?

Mr. Walker responded they were storing stuff upstairs in the front of the building from the building where he is now. They needed more storage. They came before the board and they approved it.

Ms. Miller asked and the other business that was there closed recently, at the end of the month, right?

Mr. Walker responded behind that. There is a business in there right now. The same thing, Diamond Wireless it is, phone stuff. He is on eBay.

Mr. McKay stated Ron; there is no definition of warehouse in the Village Code. Does the Village have any other warehouses operating?

Mr. Walker replied well warehouses are allowed in the I Zone, they are listing in here as. To answer your question, he has one and there is one behind him. That is a warehouse, where he is right now.

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Mr. McKay asked is this your business, your sons business or both?

Mr. Kaufman replied we are working together. I'm helping him.

Mr. McKay asked you mean the building they are currently in you consider it a warehouse?

Mr. Walker replied yes.

Mr. McKay asked why?

Mr. Walker replied it was pre-existing. Well, it wasn't pre-existing when it was a machine shop and then the Planning Board approved it to be storage.

Mr. McKay stated let me ask you the question differently, is it a warehouse or is it being used as a warehouse?

Mr. Walker replied right now?

Mr. McKay stated because a warehouse can be a certain kind of structure.

Mr. Walker responded yes, it was a warehouse before and I interpret it was a warehouse now being used as.

Mr. McKay asked but you understand my point Ron, right? You may have a building with a large open floor area building which we commonly refer to as a warehouse. If their business was in that building and there assembling products does that make their use a warehouse use or does it just happen to be operating in a warehouse?

Mr. Walker replied I don't know. It is kind of why I sent them to the Zoning Board to make a determination.

Mr. McKay responded so you ladies get to decide.

Ms. Farrell stated well see this is my dilemma.

Mr. Kaufman commented it is actually the same.

Mr. Haller commented it is a light processing facility in a warehouse.

Ms. Farrell stated no, but he is saying it is the same.

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Mr. McKay replied we have to be careful because, warehouse is not defined in the Code. It is the use that the building is put to that kind of defines whether or not it is a warehouse. Unless it is in the schedules.

Ms. Farrell responded that is my dilemma Joe, is that things are also being stored there. I know it is not being stored for a long period of time.

Mr. Walker stated there will be something stored there, like cardboard boxes that they are going to ship the stuff in. There are going to be accessory items they are going to need.

Ms. Farrell commented I know that light processing is there but this appears to me that it is a warehouse.

Mr. Walker stated I would think a warehouse is where something would be piled up and stock piled.

Ms. Farrell asked these things aren't going to be stocked? I guess I have to see the area storage.

Mr. Walker stated take Superior Pack Group, they buy candy in bulk and put in little bags and ship it out every day.

Ms. Farrell asked what would you consider that?

Mr. Walker replied I would have to look and see what they considered it when they approved it at the Planning Board.

Ms. Farrell responded because that is essentially what he is doing then.

Mr. Walker stated I would think it would be like a light processing because the stuff is coming in and he is shipping it right back out.

Ms. Miller asked Ron, if you thought it was for light processing you say, I find that warehouses are not allowed in the B-2 Zone?

Mr. Walker replied right. I would think it would fall under the light processing. He asked for a warehouse and it didn't have it there so I sent him to the Zoning Board for direction.

Mr. McKay stated part of the issue I think is you are looking to construct a warehouse. If warehouses are not permitted that is one thing. If the warehouse isn't a type of structure, but it really is the use of the structure. So if we build the same building and just made a bunch of little rooms, is it a warehouse?

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Ms. Miller replied and didn't call it a warehouse.

Mr. Walker responded well maybe that is the thing. Maybe you should submit an application for a light processing building.

Mr. McKay stated but you know we don't call things light processing buildings.

Ms. Miller replied I was just going to say the same thing.

Mr. Walker responded I'm just saying.

Mr. McKay responded I got your point.

Ms. Farrell state it is the code too.

Mr. McKay replied I know this. I looked. It doesn't say.

Mr. Walker stated but there are a lot of things that are not in the Code.

Mr. McKay replied of course.

Ms. Farrell responded but it makes it difficult.

Mr. Haller stated but you have to realize we were talking about number 6 where it says light processing. Number 5 commercial storage buildings for materials and motor vehicles only within a completely enclosed structure, now that is not called a warehouse but that is a permitted use.

Ms. Farrell replied no it is not because it is to serve only as an accessory use to a principal permitted use on the same lot.

Mr. Walker stated you have to read the top part.

Ms. Schneider asked do we have a lay out of where this building is going to go on this lot.

Mr. Walker responded he hasn't gotten to that yet. He is just looking to see if you are going to interpret that as a warehouse.

Ms. Farrell stated we have to set it down for a Public Hearing first before we even make that determination. At that point hopefully we can go over and see the operational system. It is going to have to be set down for a Public Hearing before we can give you any kind of an answer. So that would be the next step. We are just going over the application tonight that is my understanding.

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Mr. McKay replied right.

Ms. Farrell stated and so we have to set it down for the Public Hearing and you are going to have to notify the people within 300 feet.

Mr. Haller responded we could do some more homework before a Public Hearing because there are a lot of loose ends here in the Code.

Ms. Farrell replied sure, absolutely.

Mr. Haller continued I would have to read up Principal permitted uses, B-1 Business uses. I am going to have to investigate exactly what are legitimate business uses in the B-1 Zone. Maybe this falls into one of those.

Ms. Farrell replied that would be very helpful.

Mr. Haller continued and we missed that.

Ms. Farrell replied absolutely.

Mr. Haller continued if we can find that, that might put the whole thing to bed right there.

Mr. Walker responded here is what is allowed in the B-1: retail establishments, business and professional offices, municipal buildings, post offices and banks, personal service establishments; such as barber shop, beauty parlor, appliance repair, tailor, dry-cleaning.

Mr. Haller asked well is this a retail establishment?

Ms. Farrell replied he said it was not, I asked that.

Mr. McKay stated no it is not.

Mr. Walker responded retail would be selling directly to the public.

Ms. Farrell we asked that.

Mr. Haller stated no I'm asking because I don't know if retail is considered retail.

Ms. Farrell commented let me go back, are you planning to do retail?

Mr. Kaufman responded it is a new company so we would do anything to bring in.

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Mr. Haller stated is internet marketing considered retail? That is something we would have to figure out. He is selling things to the public. I honestly don't know if you can call an area sale a retail sale.

Mr. Walker responded again, that would change the parking and you would need a lot more parking if you go from a warehouse to retail.

Mr. Haller stated in the end we might actually have to come and ask for a variance to put a warehouse there if that's what the consensus is that it is called a warehouse with light processing. It may be that we have to go that route.

Mr. Walker responded that is what the denial is for. My denial was for you to come for a variance and then he saw light process.

Mr. Haller stated right. It is clear that it is not going to be an easy interpretation.

Ms. Farrell responded we only ask you these questions because these are the questions we have.

Mr. Haller replied we respect that. You have a job to do.

Ms. Farrell responded I think it would be helpful, if you don't mind, to go and visit.

Mr. Kaufman replied sure. I don't mind.

Ms. Schneider stated we will arrange an appointment for a time that we can go.

Ms. Farrell responded I don't think that we can all go. I think we can only go two at a time because otherwise it is considered as a meeting.

Mr. McKay replied that is true. The other thing is you said you operate 9-5pm basically.

Ms. Farrell replied that is not going to work for me.

Mr. McKay stated maybe the applicant would like you to come by.

Mr. Kaufman replied please.

Mr. McKay continued so I don't know if you are willing to go on a Sunday, I assume Saturday is your Sabbath. If you are willing to go on a Sunday. Again, two at a time.

Mr. Kaufman replied 8 or 6, I have no problem.

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Mr. McKay continued or if you don't mind going one night and you don't mind opening up one night.

Mr. Kaufman replied exactly.

Ms. Miller replied so we will be in touch with you.

Ms. Schneider asked can we have a telephone number to call?

Mr. Kaufman replied yes. (in which he gave the Board members his contact #)

Ms. Farrell stated it helps to be able to see it.

Mr. Haller replied I wouldn't mind seeing it myself.

Ms. Farrell stated I think right now we have to set it for a Public Hearing and declare lead agency.

Mr. McKay responded we can do that. There is no other agency it is going to be you so you can designate yourself as Lead Agency. I think the question would be when would, presumably, be the next meeting in August and Mr. Haller, can you make your submission in a short period of time so the Board has it and can review it at the meeting or do you want to make a presentation, let them go there and then have the Public Hearing meeting in September?

Mr. Haller asked we need to make it two weeks before your meeting? Is that what the timing is?

Mr. McKay responded I think two weeks will be good because then it gives the Board time to look at it.

Mr. Haller replied we can have material together by the middle of July for an early August meeting. That wouldn't be a problem.

Mr. McKay replied okay.

Ms. Farrell stated we also would like to have everyone available.

Ms. Miller commented we would have to make sure Chuck can be here so we would have enough people available if we have to take a vote. We have to see if we can get another member.

Ms. Leake asked you want to make sure Chuck is here?

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Ms. Farrell replied yes, because God for-bid we had an emergency of some kind.

Ms. Leake replied I will reach out to him.

Mr. Kaufman commented let's say right now it is two months, whatever it is, and you approve it and everything is fine. Now I was getting in an order that is a bargain and we get it in stock for six months. Let's say like the black Friday, it is 50% off. I can't refuse that. I'm paying for that \$20 and now I'm paying \$10. I'm going to buy as much as I have to buy. So at that time my son would say no, I'm sorry. I will tell my son you can't do it because it is not a warehouse. It is so hard. You understand my question.

Mr. McKay replied that is exactly their question. Because the question is when you talk about the warehouse, like you say, you turn over the items in a couple of day's maybe a couple of months. I don't think anyone would say that is a warehouse. If you had large shipments in and it might be more than six months or ten months or a year before some of those things get turned around, does that make it a warehouse? And since warehouse isn't defined, what I will do is I will look at some local codes and see if they have the term warehouse defined and I will give that information to my Board. The question you just asked is exactly what they are thinking about. On the other hand you are coming to this board for an interpretation. Once they give you an interpretation it has to be something you can comply with because you don't want the Building Inspector coming by and saying you can't keep your stuff here for 18 months. That is a warehouse. So they don't want to do that to you and you don't want that to happen so we are trying to figure it out.

Mr. Kaufman stated I will buy land. I'll build the building and then I'll find out, forget it.

Mr. McKay replied no, nobody wants that.

Ms. Farrell and Ms. Schneider replied nobody want's that to happen, that is why we are here.

Mr. McKay replied that is why this board exists.

Mr. Kaufman responded there will definitely be a time which I am going to buy and like black Friday a supply for four to five months. This is the business.

Ms. Farrell stated and I appreciate your honesty there.

Ms. Schneider commented once you leave from us you still have to go to the Planning Board, is that correct.

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Ms. Farrell responded we have to interpret if this is a warehouse or light processing. I think it is good that Joe is going to do some research for us to see what the other communities have for the definition of a warehouse. We are going to come and see your facility and then we will be back here in August. As you see it is very difficult. It is difficult because we have to look at how long things are going to sit. It does change the definition of what the building is being used for.

Mr. McKay stated you are asking to construct a building which is not defined in the Code Book. So you came in for one question and it leads to another question. Just to complete the thought I made before, if the Board interprets that this is an assembling of products or whatever it is might be permissible, then it would go to the Planning Board for approval and at that point it would be a site plan approval process then the SEQRA would be done, traffic, parking, drainage and everything else, so that would be the plan. Are you scheduling the Public Hearing?

Ms. Farrell asked can we meet again without having a Public Hearing?

Mr. McKay replied you can do whatever you want. I think that Mr. Kaufman was asking or Mr. Haller said he would submit something so we could have a hearing on the 6th, right?

Mr. Haller responded if you are going to have a Public Hearing we will put something together to present at a Public Hearing. Maybe a more detailing diagram. Certainly not a full set of Engineering plans. Something we can put on a board explaining the situation (ex: here is the building, parking lot, etc...). A conceptual kind of thing that we could have together, no problem.

Mr. McKay stated I don't think the Board is necessarily looking for a site plan type. They are looking for more information concerning whether this is a warehouse or not. How long things can be there? Those are the questions if it would be permissible. They are just looking for you to help them to interpret their own Code. They are not looking for a site plan; they don't care about the drainage. They had some initial concerns about traffic. Are 18 wheelers going to be coming in here? You answered those questions. It will be limited traffic. So the question I think that is coming out of this is, as you said before, is there some other type of use defined elsewhere in the Code that may better define your project. Maybe you don't need this interpretation or if we find out this is where we are lead, then the question becomes how else do other local government define warehouses. What is it in Monroe? Who else is operating one here? What kind of use is that building put to? Just so the counsel can get through to that issue.

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Mr. Haller asked let's say we read, and read and read and interpret and it turns out that the best path for this particular project is to actually just ask for a variance to put a warehouse where it is not permitted. If we were prepared to advertise that to the Public in time, would we be able to do that at that Public Hearing or would that be pushed off another month anyway?

Mr. McKay replied that would be different because that would be a variance. Then the Board would have to undertake a standard review for a variance, which would require that you submit a Short Form EAF and that would require a referral to the County. Since they are only interpreting the Code it really is just completely internal. Once you seek the variance under the statute it gets referred to the County and an EAF.

Mr. Haller asked why would you need a Public Hearing for an interpretation? I understand why you would need a Public Hearing for an actual variance, but why would you need one just for an interpretation?

Mr. McKay replied the Code says we have to.

Mr. Haller responded well then that is the answer. If that is in the Code then that is it. We are not going to argue with the Code.

Discussion broke out.

Mr. McKay stated the Code doesn't really make a distinction.

Ms. Farrell asked can we decide if there should be a Public Hearing, if there is no interpretation?

Mr. McKay replied I think it does.

Mr. Haller responded if you want one we will deal with it. That is fine.

Ms. Schneider commented we want to make sure we do it the right way.

Mr. Haller responded we don't want to find out late, oh we should have had a Public Hearing.

Ms. Schneider replied exactly.

Mr. Haller stated it was just a question. We are not afraid of a Public Hearing.

Mr. McKay commented I actually asked that question to one of my associates and they responded that a Public Hearing was required, exactly the same reason

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you asked it. That is why I asked it. The way I read it, the Code requires a Public Hearing.

Mr. Haller replied okay, that is fine. Please call me Joe.

Ms. Schneider asked Mr. Kaufman is there any particular night during the week that works better for you at around 6:15 in the evening?

Mr. Kaufman replied any time.

Ms. Schneider responded okay. I just want to make sure.

Discussion broke out.

Ms. Schneider asked do we call Sam ourselves directly to make the appointment to see it.

Mr. Kaufman replied yes.

Ms. Schneider commented so we can call you Monday and Colleen and I will check our schedules and then we will make an appointment. Okay.

Mr. McKay stated we are going to have to have a Public Hearing on it because it speaks in terms of appeal. I feel more comfortable just having a Public Hearing.

Mr. Kaufman commented people would see construction going on. This way we can see if everyone is against it, goodbye.

Mr. McKay stated you are really just asking for an interpretation. We can schedule a Public Hearing and if for some reason we find out the Public Hearing is not necessary, I'll just inform the clerk that she doesn't have to publish it and will be back here on that date for a continued discussion.

Ms. Farrell & Ms. Schneider replied it sounds reasonable to me. Does it sound reasonable?

Mr. Haller asked if there was a Public Hearing, I know obviously, it goes to the newspaper but is there a large series of mailings that has to take place?

Ms. Miller replied yes.

Mr. Haller stated there could be quite a few at Lexington Hills there.

Ms. Schneider replied sure.

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Mr. Walker responded oh yeah, usually it just goes to the main building/office.

Ms. Schneider replied that is not true.

Ms. Farrell stated I think it has to go to every property owner up there, Ron. Not just the Main Building.

Mr. Walker replied what's that?

Ms. Farrell stated it goes to all of the property owners.

Mr. Walker it goes to Monroe too, doesn't it? Within the 300 feet.

Ms. Farrell replied it is not just the Main Building. There are individual unit owners up there.

Mr. Walker responded whatever comes up on the computer.

Ms. Farrell replied it should go to every unit owner.

Ms. Leake stated whatever he gets out of the computer that is the main list and that is what we would give to them to do their mailing.

Ms. Farrell replied right. That is what I mean. Not just to the main building. That's what I would think.

Mr. Haller asked you folks generate the mailing list?

Ms. Leake replied the Building Inspector does.

Mr. Walker stated unless it falls into Monroe then you would have to get a hold of Monroe to find out who is within 300 feet.

Mr. Haller commented it doesn't look like 300 feet would hit Monroe.

Mr. Walker replied oh okay.

Discussion broke out.

Mr. Walker asked what if he reapplies for a permit for light manufacturing to the Planning Board?

Mr. McKay replied that could be. That is what Joe (Mr. Haller) was saying before. When we got the application in, of course, we looked at the application

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based on what was in there. But, I think that is a valid point. Like Joe said there may be another business use permitted.

Mr. Walker stated they should come in and file a new application to the Planning Board for light manufacturing and save yourself another six months.

Ms. Farrell asked then it doesn't go before us?

Mr. Walker replied no, it goes right to the Planning Board.

Ms. Leake stated unless they were referred back to you.

Ms. Farrell replied but they might not.

Ms. Leake responded right.

Mr. Walker stated if it says light manufacturing, no.

Ms. Farrell replied that might be the best way to go.

Mr. Walker responded definitely, I think.

Discussion broke out.

Mr. Walker stated I am going on vacation and won't be back.

Mr. Haller asked so she is going to cover for you?

Mr. Walker replied she is. Her dead line for Planning Board is Monday the 7th, right Jane?

Ms. Leake replied yes.

Ms. Farrell stated so you have to make a decision.

Mr. Walker commented you have to have everything back in here.

Ms. Leake stated that is site plan and everything.

Mr. Haller replied well, that is not going to happen.

Ms. Leake stated right, you would have to wait to August.

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Mr. McKay commented the Code really is not clear on that issue. What I would suggest to the Board is if you want to have this, schedule it for a Public Hearing, if necessary for that date. I will look at it right away. If I find out that the Public Hearing is not necessary I will let you know. Mr. Haller or you could contact the clerk before you start doing the mailings. But at least this way you know you will have a date on when you will be coming back and I will get a better answer to that question.

Mr. Haller asked is the Code Book on line?

Mr. McKay replied no.

Mr. Haller responded I just want to look up the light manufacturing part.

Ms. Farrell stated so we either move ahead with this, the interpretation or you refile for light manufacture. You don't have to decide that now.

Ms. Schneider commented you might be bounced back here anyway.

Ms. Farrell replied but it might not and that would avoid a lot of the stuff. That is why I am asking. That would be there decision.

Mr. Kaufman responded either you like the idea or you don't. It is not my property yet.

Ms. Farrell replied it is not about liking. Please don't misunderstand. It doesn't matter if we like it or not.

Discussion broke out.

Mr. Haller stated they have to follow the Code.

Ms. Farrell replied exactly.

Ms. Schneider stated we are going to try and tone into it for you and make it better and see what we can figure out.

Discussion broke out.

Mr. Walker responded it is not going to tell you other than light manufacturing.

Mr. Haller stated go ahead where we have to do the full fledge site plan.

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Ms. Farrell replied but you are going to need to do it any way. If you get it from us you have to go to the Planning Board with it or you bypass us and just go right to the Planning Board. Either way you are going to have to go to them.

Mr. Haller stated we have to go there regardless.

Ms. Farrell replied if you change it then you bypass us.

Ms. Schneider stated they might kick you back to us anyway, but we don't know. Maybe they won't in this case.

Mr. Walker commented if they do then you won't have to worry about Black Friday this year.

Ms. Farrell replied he can still use his other place until the time comes.

Mr. McKay stated there is a training presentation for New York State. It doesn't reference the Village Code. This is a general reference of the State Code and it says Public Hearings which must be held in a reasonable time after they receive the appeal give the Public the opportunity to be heard. Every matter that comes before the Zoning Board of Appeals requires a Public Hearing. There is no citation there; you know how we always love citations. To make sure that that person's right, but that is what the training manual says.

Mr. Haller responded that is a reason to have a Public Hearing, right there, because someone else could pick that up and say why didn't you have a Public Hearing.

Mr. McKay stated based on that I don't think my opinion is going to change. Based on that I think what this Board should do is designate itself as lead agency, preliminarily classify it as a Type II, schedule the Public Hearing for the August date. You can change your mind.

Mr. Haller responded we have until July 23rd to get ready, so that is not going to be a problem.

Mr. McKay stated the only thing I would ask of you is for some reason if you decide that you are going to do this some other way let us know.

Mr. Haller replied we will let you know as soon as we know that.

Mr. McKay responded it will save yourself money because you have to pay for the publication costs and to notify people. If you publish in the paper and spend

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all the money for the certified mailings and then change your mind you just kind of threw away \$500 - \$700.

Mr. Kaufman asked if we go to the Planning Board and submit a site plan and everything it is a large cost involved and they might say go back here. I don't know. If I have clearance here and if they say anything, I will say I came from here and they say it is permitted/not permitted.

Mr. McKay responded Mr. Kaufman, just to be clear I am not your lawyer, Mr. Haller's your representative. You filed the application and requested an interpretation because your actual concern was a warehouse so that is what this board is looking at. If you find that there is a different section of the Code that maybe you don't require a variance, and then certainly you can reconsider. But the specific question you asked this Board is concerning the warehouse use. That is what we have to decide. If you can find something better.

Mr. Walker stated call me in the morning. Call me at 9am.

Mr. Kaufman replied I will come here at 9.

Mr. Walker stated I will tell you your options.

Mr. Kaufman responded in the mean time we will come to this Board.

Ms. Farrell replied absolutely. Even if you change your mind we will still stop up because I am curious.

Mr. Kaufman responded beautiful.

Ms. Schneider stated we are going to call you Monday and make a firm appointment.

Mr. McKay stated I have a Draft Resolution. They will take a quick look at that and if the Board agrees with it then we will adopt it.

Ms. Miller read from the Resolution whereas, the Zoning Board of Appeals of the Village of Harriman has received an appeal from Samuel Kaufman on behalf of Best4Best (applicant) of the denial of a building permit for a proposed warehouse to be built on the parcel of real property situated at Section 102, Block 4, Lot 1.222, in the Village of Harriman, said lot also being know as 169 NYS Route 17M and now therefore, be it herby resolved that the ZBA hereby determines that the hearing of the appeal and interpretation of the Code is a Type II action under section 617.5 of the regulations implementing SEQRA, and accordingly no declaration of lead agency or further environmental quality review is required; the

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ZBA hereby schedules a public hearing on this proposed action on August 6, 2014 at 7:30pm; and the ZBA directs the Village Clerk to publish a notice of the public hearing, in compliance with 140-52 of the Code, to be held on August 6, 2014 at 7:30 pm at the Village Hall to review the proposed appeal.

Ms. Leake stated we will have to change that to Deputy Clerk because we don't have a Village Clerk at this time because she has been out.

Motion was made by Member Farrell to accept the above Resolution and seconded by Member Schneider. *3 Ayes. Member Crover absent.*

Adjournment

- Motion to adjourn the ZBA meeting at 9:10pm was made by Member Farrell, seconded by Member Schneider. *3 Ayes. Member Crover absent.*

Minutes Respectfully Submitted by:

Jane Leake – Deputy Clerk/Secretary