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Zoning Board of Appeals
April 21, 2015
7:30pm**

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Opened the ZBA Meeting with the Pledge of Allegiance

Call to Order

- Chairperson Laurine Miller called to order the Zoning Board of Appeals Regular Meeting at 7:30pm on April 21, 2015, 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
- Chuck Crover - Member
- Carol Schneider - Member
- Ron Walker – Building Inspector
- Jane Leake – Deputy Clerk/Secretary

Also Present

- Joe McKay
- Michael Frascarelli – Joe McKay's colleague

Absent

- NONE

Adoption of Minutes

- **Motion** to approve the minutes from the January 7, 2015 Regular meeting was made by Member Schneider and seconded by Member Crover. 3 Ayes.

**Garfield Plumbing & Heating
Determination of Special Permitted Use
106-5-15**

Present: John Loch, Engineer

Mr. Loch stated that the applicant went to the Planning Board for Site Plan approval and in going through the review process one of the concerns the Board had was whether the storage of materials connected with his business under your Code would require a special permit. Apparently there is a little ingenuity in

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language of your Code as to whether this would require a special permit or not. Initially we did have another Planning Board Meeting last night and there are two other issues the Board brought up and suggested I discuss it with you. The issue that came up is that my clients business is a plumbing business and things plumbers usually deal with is probable gases such as acetylene tanks. Traditionally those are stored outside because you want a place where they vent freely. It is not a good idea to store something like that inside a building. One of the things we had to do was put an exterior cabinet similar to this (referring to the map) for the storage of fuel tanks outside. However apparently outdoor storage is something not permitted under your Code in this Zone so we were looking for a way to address that and possibly a variance to be allowed for a very minimal amount of outdoor storage, specifically for this use. Another item that has come up; there is an easement on this property, the property to the east of the site has an access easement through it. It is defined in the deed only as they have the right of ingress/egress over the location of the driveway in 1956. Ultimately described as a location of a driveway where it was in 1957. We don't have a good way to prove exactly where the driveway is/was. We are certainly not intending to do anything to cut off access to the property. We believe our plan does provide for adequate access, but one of the things in discussing with the Planning Board is that our applicant doesn't really need much parking for his business. The majority of the employees do not come directly to the business. Three of his trucks are generally taken home by employees. They only come into the shop periodically for parts and things. So we really have less of a need for parking. The Planning Board suggested that we consider applying for a variance to reduce the amount of parking by two spaces.

Mr. Crover asked the reason for that?

Mr. Loch replied the Planning Board is really uncomfortable with the idea of approving parking that could be located in an easement and in discussing it it is not parking that we really need.

Mr. Crover responded that is what I want to make clear of that. Those two spots are in that easement?

Mr. Loch replied the problem is we don't have a good way to establish where the easement is precisely located. The only legal reference is that it was located on a driveway as was in place in 1956 and as an example the first things we started doing is looking back to aerial photos. In 1994 the only digital image I have is pretty much building is here. I'm sure the pavement is here, but it is unlikely I am going to find anyway to prove where the driveway was in 1956. Unless there was somebody who just happened to do an aerial at that time, I don't have a way to prove it.

Mr. McKay asked is the easement for the adjacent property?

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Mr. Loch replied the easement allows for ingress/egress for the adjacent property here, but it is not exclusive in use and it doesn't say anything more specific that would prohibit us from occupying it and we obviously don't want to impinge on anybody's rights.

Mr. McKay asked does the other property have legal rights or legal access from another location?

Mr. Loch replied I believe they probably do, but I don't think they do as a practical matter.

Mr. Walker stated I think it backs up another residence, there property. It doesn't back up any house or anything or driveway.

Mr. Crover asked which property is that?

Mr. Walker replied Brian Paul's.

Mr. Crover stated I don't think they have any access to any other road.

Mr. Loch replied my recollection is when looking at the tax map they do have access to another road, but as a practical matter they don't have a driveway or anything constructive to get there.

Mr. McKay asked do you have a copy of the easement?

Mr. Loch replied yes, we have submitted that to the Planning Board and their attorney reviewed it.

Mr. Crover asked the driveway to that property, as it is now, where do they access off of that parking lot?

Mr. Loch replied right now they pretty much drive right through here and in (referring to the map). It is one of the reasons we showed this dimension here (referring to map) is to show even with the two parking spaces there you have adequate ability to get to the property.

Discussion broke out.

Mr. Crover stated their only entrance has been through 15?

Mr. Loch replied that is very clear in their deed. There is a reference in their deed that they may have some rights going out on through this (referring to the map). I don't see that as workable for them. We are not looking to reduce their

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rights or anything. The Planning Board didn't want to necessarily approve something that could impinge on somebodies rights.

Mr. Crover stated even with the two parking spots there you have 14 feet.

Mr. Loch replied yes, and one of the things I chose last night to show you were pictures of cars parked. (He showed the Board pictures of cars parked on the lot)

Mr. Walker commented that is where Brian Paul usually parked his trucks in those spots right there. He had two box trucks.

Mr. Crover stated it is not his property.

Discussion broke out.

Mr. Klein responded he has a plow truck for the snow in the winter time and he would plow the driveway that is why no one bothered him and to leave the truck over there, but it is not really his.

Mr. Loch replied the only rights they have is for ingress/egress.

Ms. Miller asked so they are not supposed to have any parking spots?

Mr. Loch replied they actually have adequate parking on their own property. Apparently over the years at times they had parked some of their vehicles on this property, but it is not something I believe they have a particular right to.

Ms. Schneider asked then they won't have any access to a road otherwise?

Mr. Loch replied no we are not proposing to shut them off for access in any way shape, matter or form.

Mr. Crover stated I don't know why we need to discuss this too much further, it needs to be done in a Public Hearing if you want to amend your application to include a variance on the parking.

Mr. Loch replied right and what will provide the argument for what we feel is suitable. Since this just came up last night we thought it was appropriate to bring it to your Boards attention and make you aware that we intend to amend the application.

Mr. Crover asked basically you are going to be asking for a determination of a special permitted use on the storage and you are also asking for a variance for a small outdoor storage and reduced parking.

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Mr. Loch replied that is correct.

Mr. McKay stated with respect to those outdoor storage of those tanks, I assume it is not addressed at all in the Code. I didn't look for that issue.

Mr. Loch replied it doesn't specifically say tanks, it just says outdoor storage is not permitted in that Zone.

Mr. McKay stated I would like to research to determine. Presumably that is a State Fire Code issue separate and distinct that the Village may require or may allow and there may be prohibitions or it might be permitted under State Code. We will take a look at that one.

Mr. Loch replied I am not too concerned about it under the State Fire Code. I did talk to someone who is a Fire Inspector in another community and I asked him how he was dealing with it and he said it hasn't come up as an issue. He said, we never thought about it. As a Fire Inspector I look to see are you guys storing everything outside of that nature. One of the things he told me is generally he actually encourages bolting things to the building because he doesn't want the risk of impact, damage and things like that. He wants to know this is where they are going to sit. So to some extent I was wondering if that is opposed to considering an outdoor storage unit an accessory attached to a building.

Mr. Walker stated there are other requirements too as to how far away from the window. It can't be any type of depressions or lower floor levels where the gas would seep down in under FBA.

Mr. McKay asked do you have any idea what types of substances that would be stored?

Mr. Loch replied most likely acetylene tanks, map gas, propane.

Mr. McKay stated we will take a look at that.

Ms. Miller commented there are residents on both sides.

Mr. Loch replied actually no, you have a car wash on one side.

Ms. Miller stated you have the car wash and then the house.

Mr. Loch replied that house is in a commercial Zone.

Ms. Miller stated then you have a house on the other side.

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Mr. Loch replied although it is being used as a residential it is in the same Commercial Zone as this.

Mr. McKay stated I would be interested in hearing, going back to the special permit use as to what is going to be stored inside the building, plus/minus how many square feet is going to be dedicated to storage of fuel and all kinds of materials and generally what type of fabricating that might be going on there.

Mr. Walker commented as far as the word storage I think they may not be using the right word. They are going to have pipe and it is no different than Midas storing mufflers.

Mr. Loch replied we are looking to keep material that is used by a plumbing business.

Mr. McKay stated the Board may ultimately determine that it is not storage and it doesn't require a special permit. None of those terms are defined in the Code. There are several different terms, none of which we have much guidance on at all. That is why you are here and the Planning Board sent you. Can you tell the Board a little bit about its pipes?

Mr. Loch replied there are pipes, elbows, different types of piping.

Mr. Klein stated plastic pipe, cooper pipe, PVC piping, gas piping.

Mr. Walker replied like walking down the aisle in a Home Depot.

Discussion broke out.

Mr. Klein stated they don't do any work in the building, just taking material out to the job.

Ms. Miller asked the public will not be buying from you?

Mr. Klein replied no.

Ms. Schneider asked what about fabrication?

Mr. Klein replied only on the outside. We only do it on the job site.

Mr. McKay asked so there won't be any fabricating outside?

Mr. Loch replied it would be unusual to fabricate on site, but we didn't want to say nothing ever happens. Yes, occasionally people may take pieces and put them

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together in the shop. It is not that we are making products to offer to the public or making things that we are shipping out to other suppliers and things. Occassionally, yes somebody puts something together using a work bench.

Ms. Schneider asked is there welding going on?

Mr. Loch replied no.

Ms. Schneider asked so how much of this area that you have defined here as storage is actually going to be used? Is it the whole thing?

Mr. Loch replied pretty much all of it. One thing we were discussing, if necessary, if parking becomes a significant issue we do have a big enough garage bay where we can park one vehicle inside as a way to pick up another space, but in general we were anticipating to use that as more storage space.

Ms. Schneider asked how many employees do you have?

Mr. Klein replied fifteen – twenty.

Ms. Schneider asked and vehicles?

Mr. Klein replied five.

Ms. Schneider asked in addition to the fifteen – twenty employee vehicles you have five company vehicles.

Mr. Loch replied you have to keep in mind the majority of employees do not report to the site. Three of them are taking company trucks home and they go right out to their job site. The only time they come to the site is to pick up materials and things. Actually working on site you are probably only going to have three, maybe four. Work is done out where they are building houses. Generally you will have office staff in here generating jobs and making sure materials are ordered.

Ms. Schneider asked so out of the fifteen – twenty you are going to have 12- 17 employees that don't report there and five vehicles?

Mr. Loch replied that is correct.

Ms. Miller asked you have here - garage door, is there already a garage door here (referring to the map)?

Mr. Loch replied yes.

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Ms. Schneider asked what kind of trucks do you have that bring in deliveries of your supplies?

Mr. Klein replied pick-up trucks. We only use it for pipes. The big orders go directly to the job.

Ms. Miller asked what would be your hours of operation?

Mr. Klein replied usually from 8 – 6pm.

Mr. McKay asked is the business ongoing in that location or is it vacant right now?

Mr. Walker replied it is vacant right now.

Mr. Loch responded it needs a substantial amount of renovation work that is being done to the building.

Mr. Frascarelli asked is the location of the outdoor gas storage located on here anywhere (referring to the map)?

Mr. Loch replied no, we haven't shown it on there, but where we would anticipate it would probably be in the back of the building somewhere over the garage bay area (referring to the map).

Mr. McKay stated the reason why I asked to whether or not it is an ongoing business is I thought on the EAF it indicated that it was an ongoing business and on the application it didn't indicate that.

Mr. Loch replied that may have been a misunderstanding because it is an existing plumbing business, but it is not operating out of this site at this time.

Mr. McKay replied I see, it is an ongoing plumbing business, but not here. That is why we are asking that question. So you are looking to get two variances. We have to research and find out whether the variance is allowed on the acetylene tanks and you are looking for a two space variance.

Mr. Loch responded we will describe why we think it is appropriate in respect to the tanks and things.

Mr. McKay stated in this particular case the narrative is very important. I understand that it is just storage of material that they are going to use. It is somewhat self-evident, but I would like to know more about what they intend to store, what types of gases or flammable substances they intend to store and approximately where the

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Planning Board will finalize that on the site plan. I guess the two parking spaces you are talking about are in the top right hand corner.

Mr. Loch replied yes. They can potentially be in the access easement. We will provide copies of the easement documents. Does the Village have a separate Fire Inspector that we should consult with in respect to the gas storage.

Mr. Walker responded check with the Fire Department.

Mr. Loch asked you don't have a Fire Inspector as part of your Building Staff?

Mr. Walker replied no.

Mr. Crover stated I feel we have enough information to move forward, but we would have to re-write the resolution.

Mr. McKay replied I don't know if you are quite there. They need to either submit their application or amended application for the parking variance and I need clarification about the tanks and what sections of our Code may or may not apply. The only thing that the Board would be doing is to declare Lead Agency status with respect to the application, but since the application is going to be amended or superseded it wouldn't even actually be necessary to take that action.

Mr. Crover responded agree. Will you have a revised application to us for the next meeting?

Mr. Loch replied we will have that later this week.

Discussion broke out.

Mr. Crover stated I guess we can act upon being lead agency.

Mr. McKay replied we are not ready to schedule the public hearing. If you want to take some action you could designate yourself as lead agency with respect to this application.

Discussion regarding next Board Meeting.

The Board made a decision to let the applicant submit the revised application two weeks prior to the next ZBA meeting which is scheduled for Tuesday, May 19th.

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**Daveline Real Estate Corporation
Parking Variance
101-2-3**

Present Christopher Guddemi, Engineer of LAN Associates and Madeline Goldberg, Daveline Real Estate, Inc.

Mr. Guddemi stated to the Board that the reason they are here is the same reason we were here before this Board in 2013. She has a unit in her building that she would like to rent. The last time we were here was for, what became the Auto Repair Garage in the front and now she would like to rent this vacant retail space in the back. The last time we were here we were asking for a parking variance. We are asking for the same thing now. To summarize last time, you granted a variance for 65 parking spaces where 127 are required. What has happened since then, she has rented this one unit which is actually a less intense use than what she was anticipating at the time. Currently, the required number of spaces is less than what she is allowed under your last variance. Now that she is looking to occupy that one particular space based on a retail use by your Code the number of parking spaces would be 132. So with her previous approval it was for 127, so we are talking about 5 spaces. She would have the option without a variance to proceed with constructing 5 spaces at the Planning Board, but based on her experience and the current parking needs at the site the property owner doesn't feel like the additional five spaces are necessary. If you would like to comment Madeline on the status of the current lot is.

Ms. Goldberg replied yes. The current hours of the operations of all businesses given at any time there are a minimum of 5 – 10 spaces emptied all the time and that is currently with the vacant store, but the garage is occupied now, Harriman Army & Navy, Crossroads Café and given any time and I'm sure all of you drive by you never see the parking lot full. I did photograph during the snow storm when in fact the snow took up a lot of parking spaces and we still had vacant spaces that particular time. She showed the Board members the pictures and stated Saturday is our busiest day and you can see there are vacant spaces further down on the lower parking lot.

Mr. Guddemi stated the other pictures were from a Tuesday.

Ms. Goldberg replied a typical work week. I just wanted to highlight to you how vacant it is and the added expense of putting in 5 additional spaces is a little cost prohibited right now. One we have had a vacancy there for over ten years and every time we have someone who approached us that would like to rent the space we tell them what we are going to have to do, which is to go before you and see if we can get a variance and no one wants to tie up their dollars and time. Therefore, we lose tenants repeatedly so we are asking for your assistance in this.

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Mr. Guddemi stated what they are trying to do at this point is to get an approval for retail use, they don't have a perspective tenant at the time, but to the point where they can have an approval so if they were approached by a perspective tenant they can say here it is, you are good to go. So the only thing we are asking for at this point from you is to increase the previous variance by 5 spaces. So she can allow that retail use.

Mr. McKay asked can you just clarify with us what the difference was on the site at the time the variance was granted in 2013 and what you are looking for now?

Mr. Crover stated that variance in 2013 was for the church.

Ms. Goldberg replied which never came to fruition.

Mr. Crover continued that wasn't for the Auto Repair Business

Ms. Goldberg replied the Auto Repair Business was in fact occupied at that particular time. It was in fact Pro-Tech which tied up an enormous amount of parking spaces that they weren't entitled to, but there were still vacant spaces.

Mr. Crover stated the variance that was approved in 2013 was based on a tenant coming in there that was going to be church.

Ms. Goldberg replied that is correct.

Mr. Crover continued in your vacant spot. That never materialized.

Mr. McKay asked is that the same vacant spot? That is what I am really trying to figure out.

Mr. Crover replied yes, it is the same vacant spot. So if that never materialized it should just go back to the old use which is retail.

Ms. Goldberg stated that is what we thought, but we were told by the Planning Board to come before you and allow it to go back.

Mr. Guddemi commented I think the Planning Board saw it as just this variance as your current state of affairs that the Zoning Board....

Mr. Crover stated that variance was a conditional based upon the Church going in there because there are conditions on that variance.

Mr. McKay responded there is a little confusion. This afternoon we received a copy of the 2013 Decision and the way I understand it, and tell me if I am wrong,

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is this Board granted a variance in 2009 which would have allowed for a Church use.

Mr. Guddemi stated I thought the 2013 one was for the front space for retail use.

Mr. McKay replied I think so. The document made reference to the fact that this Board granted a variance in 2009 for religious use.

Mr. Guddemi replied I believe you are right.

Mr. McKay continued this Decision talks entirely about parking spaces and a variance for retail use for a different area and says nothing about a use variance for a religious use.

Mr. Crover replied that was strictly for parking, wasn't it?

Mr. Guddemi responded right, the 2013 one was just for parking.

Mr. Crover replied I remember addressing the parking based on the religious use because that would primarily be on Sundays.

Ms. Goldberg stated in 2009 we requested a use variance to allow a house of worship. Parking was something that was spoken about but I don't believe we received a variance when needed one based upon the amount of parking spaces the church was going to use. The church backed out, so again it became vacant and I had sent a letter, which no one seems to know about, stating that the church had backed out can you please reverse it and would it be able to go back to its original retail use. Formally it was a beauty supply store, 3-G's. I did not hear anything so we just kept going. In 2013 two gentlemen approached us, the garage was then vacant and they wanted to do a fitness center out of the garage. That is why we got the variance for the parking because they said we need it and to answer your question that is when they said we needed additional parking and we got the variance based upon there additional use, where the garage needed much less use. When we got the variance it was for additional use based on the fact that they were a fitness center and they felt that we required how many more spaces.

Mr. Guddemi replied by Code it would have required 127 total including the fitness center so that would have included at the time of the variance was the existing restaurant, army & navy store all the apartments as well as the then proposed space which was the fitness center which had a more intense use then what ended up going in there. The Planning Board then went ahead and allowed the repair garage because the parking requirements were less intense at that time. So the church really shouldn't be in the picture at this point. The only thing to mention at that point that you granted a variance in 2013, was that specifically

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secluded was this vacant space and at the time the Board said if you want to use that, either you have to build the parking or you have to come back and ask for the additional variance so here we are.

Discussion broke out.

Mr. Guddemi continued stated that unit at 1,897 square feet and at the retail one space per 150 square foot would require 13 spaces and if you add that all up the proposed required spaces would be 132, whereas our current approval is for 127.

Mr. Crover asked how many spaces do you actually have?

Mr. Guddemi replied 65.

Mr. Crover stated so you are looking to change it. Even though you are back to an Auto Repair Shop in there you still require more spaces?

Mr. Guddemi responded we are still 5 short.

Mr. Crover replied because the 127 didn't include that retail.

Mr. Guddemi responded the 127 included more parking for this, but no parking for this. If you add all the numbers up we are 5 short, so what we would be asking for is 65 spaces where 132 are required instead of where 127 are required.

Ms. Miller asked what type of business is supposed to be going in now?

Ms. Goldberg replied we don't have any serious offers. We had someone who just wanted to have a showroom for kitchen remodeling and they were very interested and he said how soon can we move in and I told him exactly what we need to do and he said I can't wait.

Mr. Miller stated so you have no one now.

Ms. Goldberg replied not at this particular time. We are showing it tomorrow. I don't know what he is interested in, but we are hoping to keep it retail. That is the community which we feel works well with everyone, with the garage, the shopping and being able to eat. We are very focused on having a retail environment that works.

Mr. McKay asked there is no question that you are asking specifically for a variance for retail.

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Mr. Guddemi replied retail is an approved use, we are just asking for the required parking variance for a retail use.

Mr. McKay stated if some other type of permitted tenant would come by for this approval, assuming it gets approved, this application would also go by the way side you would be in again. Assuming this retail space is leased are there other vacant portions of the site that you would come back for in the future?

Ms. Goldberg replied this is the only vacant space.

Mr. Walker stated she's applied for a building permit to renovate inside so that is already issued and she has that. I am trying to be proactive here in getting her ready.

Mr. Crover commented this is basically going back to the use prior to 2009 where it was rented out as a retail space.

Mr. McKay replied under our Code even though you had granted a use variance back in 2009, since it was never built out for the purpose of that new use that approval expired six months later. So essentially the use variance that they had in 2009 has expired, they no longer have that variance. So yes, it goes back to what it was.

Mr. Crover stated that is the point I am making it goes back to the retail with the garage and the store what it was before that variance, which they had a variance for it back then for the 132 spots. I don't know if it was a variance or grandfathered.

Mr. Guddemi responded I don't know if it was a variance or an existing condition.

Mr. Crover replied an existing condition. I know you were here in the past before that, but I think it was related to the apartment in the back, not for the parking. It was something with the pool or something else. It had nothing to do with this.

Ms. Goldberg replied no, it had nothing to do with it. We have a mixed use.

Mr. Crover stated I have no more questions. I have an understanding what is happening now, once I got my dates straight.

Mr. McKay commented the documents we received there was a reference to the fact that you were going to provide some kind of parking analysis or parking report tonight.

Ms. Goldberg replied we were not made aware of such a request.

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Mr. McKay responded you didn't say it, it was just in some of the documents that we saw. It was a parking study.

Mr. Crover stated if I recall from the past, the times you were here, you do have the property to add the parking if necessary.

Ms. Goldberg replied yes, we do.

Mr. Guddemi responded there is a lot of green space and we have done our plans in the past to show that it was conceptually possible, but where we are at this point she doesn't think she needs it. It would seem to be a waste tearing up grass and spending money to put in parking that day to day is not needed. If it ever got to the point where it would, really it would benefit the property owner to invest in some more parking if they were turning away business, but at this point it just doesn't seem like that is the case, practically. There is always plenty of parking. It would just seem to be a waste of money at this point to provide extra parking that would remain vacant.

Mr. McKay asked could you describe for me, I know you are probably familiar with it, there are several businesses here; the Army & Navy Store, the Restaurant, the Retail Space ...

Ms. Goldberg stated it is right down the road and it is the intersection of North Main Street and one of the entrances to the lower parking lot which is closest and most easterly, it is right off of North Main. Then there are two entrances on 17M directly.

Mr. Guddemi stated but as far as the uses they are on site. In regards to the business hours, the service station is opened Monday through Saturday 8am – 5pm. The clothing store Monday – Wednesday 10am – 6pm, Thursday & Friday 10am – 8pm, Saturday 9:30am – 5pm. The restaurant Monday – Friday 7am – 6pm, Saturday 7am – 3pm and Sunday 7am – 2pm. The apartments are not applicable and the retail space is yet to be determined.

Ms. Goldberg commented I do want to mention that prior to 2008 it was for over five years a beauty supply store. It was called 3G's beauty supply they had 2 employees and again business was in better shape back then. There was no internet sales that we had to compete with that again takes for more vacant spaces and we were never full and we had a tenant that was very difficult in the garage who used up an enormous amount of spaces for things that he shouldn't have been and we are very happy he is not there anymore. Again, the parking lot was never full. I do want to stress that.

Ms. Miller asked your space in the back is still vacant?

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Ms. Goldberg replied yes, in the rear.

Ms. Miller asked that is where the religious was supposed to be?

Ms. Goldberg replied yes.

Mr. Frascarelli asked there is a creek in the rear of the property?

Mr. Guddemi replied yes, Ramapo.

Mr. Frascarelli asked is there storm water protection currently existing behind the parking lot behind the store?

Mr. Guddemi Replied there is nothing that controls storm water currently. If we were to build it out obviously it means all sorts of things. Another reason not to go building the park out if it wasn't necessary.

Ms. Goldberg responded we have never been flooded.

Ms. Schneider stated if it turns out to be anything other than retail that she wants to put in there she has to come back.

Mr. Guddemi asked what if it was a lesser intense use theoretically would the Planning Board be able to approve that?

Mr. McKay replied it is just a math issue. There are certain categories of businesses and spaces that you need.

Mr. Guddemi replied right.

Mr. McKay continued if you are going to need a variance on a number of spots you will be back.

Mr. Guddemi stated the last time we got approved for retail and ended up putting in a garage which was less intense and that was fine.

Mr. McKay replied the variance is going to have a total number of spots associated with it, whether it is the 127 or 132. I believe that wasn't specifically of the Code, it was a math issue. There are a certain number of spots required to be used. The Planning Board is not going to be able to vary that.

Mr. Guddemi responded no, they wouldn't be able to go hire. I believe, based on past experience, as long as we came in with retail which she is hoping for or something that was less intense, which there are a number of other things that

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she could do by Code then the Planning Board would be able to approve it as long as we weren't exceeding the variance that was already here.

Mr. McKay replied I agree with that.

Mr. Guddemi stated that is my understanding just based on past experience. Again, the idea is retail that is what we are going for. Hopefully we won't have to deal with that.

Mr. Crover & Ms. Schneider stated I have no more questions.

Discussion broke out.

Mr. McKay stated as far as the Planning Board application did they make a referral to the County Planning Department?

Ms. Goldberg replied I don't know.

Mr. McKay stated I believe they did. It was sent over already for a 239 review, but not on the issue with the parking spots. The Planning Department determines whether it is local determination and any comments. So part of this process whether a referral is required or not I would supplement whatever was sent over by the Planning Board so that the Planning Department has a copy of the full application which would include this variance.

Ms. Miller asked we need a public hearing on this now?

Mr. McKay replied yes, it is an area variance.

Mr. Crover stated I think we can accept the application as complete and set the date for a Public Hearing on May 19th. That should be adequate time to get the mailings out.

Discussion

Mr. McKay replied you can adopt this resolution being the application complete, designate the Board as Lead Agency, classify it as an unlisted action and set the Public Hearing for May 19th and as part of this I would ask that the Board refer a copy of the variance application and whatever materials are submitted to the County Planning Department as part of the existing 239m referral.

Motion was made by Member Crover to adopt this resolution being the application is complete, designate the Board as Lead Agency, classify it as an unlisted action and set the Public Hearing for May 19th and as part of this I would ask that the Board refer a copy of the variance application and whatever

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materials are submitted to the County Planning Department as part of the existing 239m referral. Seconded by Chairwoman Miller. **3 Ayes**

Discussion

OLD BUSINESS

ZBA Application

The Board determined that the new ZBA application should go to the Village Board for the final approval. In regards to the escrow accounts, at some point in time the Board would like to add another page to the application that would have the applicant sign a page stating in words such as, I understand that I am responsible for all expenses and must supplement the escrow or keep a remaining balance in the escrow account.

Adjournment

- Motion to adjourn the ZBA meeting at 8:55pm was made by Member Crover, seconded by Member Schneider. **3 Ayes.**

Minutes Respectfully Submitted by:

Jane Leake – Deputy Clerk/Secretary