

**Village of Harriman  
Zoning Board of Appeals  
August 5, 2015  
7:30pm**

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**Opened the ZBA Meeting with the Pledge of Allegiance**

**Roll Call**

The following persons were present:

- Laurine Miller – Chairperson
- Darrin Sainato - Member
- Chuck Crover - Member
- Carol Schneider – Member
- Sandra Daly - Member
- Ron Walker – Building Inspector
- Barbara Singer – Deputy Clerk/Secretary

**Also Present**

- Michael Frascarelli

**Adoption of Minutes**

- **Motion** to approve the minutes from the July 1, 2015 Regular meeting was made by Boardmember Schneider and seconded by Boardmember Daly. *All in favor.*

**Chairmember Laurine Miller recused herself from the meeting as she is a neighbor of Garfield Plumbing & Heating and felt it was a conflict of interest.**

**Call to Order**

Boardmember Crover called to order the Zoning Board of Appeals Regular Meeting at 7:30pm on August 5, 2015, at the Village of Harriman Hall located at 1 Church Street, within the Village of Harriman, New York.

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**Garfield Plumbing & Heating**

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

**Present:** John Loch, Engineer of AFR Engineering, Bernie Davis, Land Planning Consultant, Mr. Klein, Owner.

Member Crover begins the determination of the decision for the application of Garfield Plumbing, 36 Route 17M, LLC. Interpretation of the storage use, and other things requested by the Planning Board such as a parking variance for two spots and the outdoor storage cage for the flammable items. Just these three items, correct?

John Loch replies yes. For the record my name is John Loch. I am a land surveyor for AFR Engineering. I am here to answer any questions that the Board may have. I believe at this point a presentation has been made.

Member Crover states, the Public Hearing has been closed on this matter. We have taken the thirty days for everyone to review it. Does anyone have any questions? If not, we can ask Mr. Frascarelli if he has any questions for us. We have some paper work that he has supplied us with tonight.

Mr. Frascarelli replies we have circulated a draft proposed decision on the three items on this application. We have two new Board members so it would be appropriate under the circumstances if the Board wished to adjourn to Executive Session to discuss the legal points. There are two types of issues that need to be addressed, interpretation of the code, affecting two of the items, and the other a parking variance.

Member Crover asks if there is anyone that has a question or discussion that they would like to present first.

Member Daly says yes, I'm new so maybe I'm not understanding this the way that I should.

Member Crover asks if she would like to enter into Executive Session to discuss these legal matters.

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Member Daly says yes please.

Member Sainato says I went over it and I feel I understand it pretty well. I don't see any current issues.

Member Crover states that this draft is addressing some of the legalities and opinions in a draft for us to review.

Mr. Frascarelli says that this is something that the Board could adopt if they so choose.

**Motion** is made by Member Schneider to enter into Executive Session to discuss legalities. Member Daly seconded the motion. *All in favor.*

**Motion** is made by Member Daly to end Executive Session. Member Schneider seconded the motion. *All in favor.*

Member Crover thanks the audience for their patience. We are going to address these issues one at a time and the first one that we are going to address is the code interpretation as to whether applicant's use includes commercial storage building requiring a special use permit approval from the Planning Board. Do any Board members have any comments?

There being no comments

Member Crover continues I'm going to read what I've come up with which is similar with the information that was written for us. I don't feel this necessarily constitutes a commercial storage building as in a warehouse. You're storing your own materials for your own use. Reading our Code I do not feel it falls under special permitted use. I have mixed feelings about it, sometimes I think it should because of that wording "and/or" or the "and" with the automobiles. I think the interpretation of the Village when they created that was to address auto repair shops and car dealerships and things of that nature, not plumbing supplies. The business that was there before yours was a cabinet making business and they stored lumber in there. You're not selling it retail, although retail is allowed there. I think we should make a decision that the interpretation here does not require special permitted use. Any comments on that? If there is no objection, I would like to continue and vote on all three items at one time unless there's controversy on any one item.

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Mr. Davis adds when you get to the resolution on an issue, as far as a formal resolution, make a reference that you send it over to the Village Board for them to review that section of the law.

Member Crover replies that we are keeping a tally on things, such as missing definitions, to submit to the Village Board. In fact the term for commercial storage has not necessarily been defined clearly in our Code Book. If there are any comments on that, we can move on to the second item. The area variance to eliminate two required parking spaces and alleviate concerns of infringement on an existing easement. This is something that the Planning Board has sent the applicant here for. The applicant can meet the eight required spots but two of the spots may or may not be in an easement of access for the neighbor behind this building. It's been addressed and documents have been shown to us and the Planning Board that there are no strict lines written in the deed as to where that easement or driveway access to the Paul property is going through that property. It just states that they have access through that parking lot. The neighboring property does not want any clear cut lines drawn in the deed, refuses to cooperate with the applicant, doing that so they could address those two parking spots to appease the Planning Board. And in such the applicant feels that the two parking spots are not needed in their business as their employees take their vehicles home and they are just coming in for storage. I have no problem in granting that variance. We do have to address four items here. Whether there's an undesirable change that would be produced, whether the benefits sought by the applicants can be achieved by some other method, whether the requested area variance is substantial, and whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood and whether the alleged difficulty was self-created. I don't think that it's an undesirable change, it's been like that for years. Whether the benefit sought by the applicant can be achieved by some other method, yes, he can get eight spots. It's through the request of the neighbor and the Planning Board that they don't go to Court and battle over creating a line for this easement. Whether the area variance is substantial, two out of eight parking spaces maybe considered substantial by many, including myself, but however, in this particular instance, although I don't want to set precedence with this, they could get their eight and the neighbor that would be effected by that is asking that we not enforce that and grant the variance. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions, I do not believe that it does. Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision, I don't know if you knew if that easement was there when you purchased the property, but you didn't create the problem with the easement. It's been there for years and years. Could it

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have been something that could have been addressed with the purchase of the property, possibly, but that doesn't mean that the neighbor would have cooperated anyway. And it could have been another applicant here having bought the property. I don't think that the difficulty was self-created. Those are the five arguments that we need to address regarding an area variance. Does anyone else have any comments?

There were no comments.

Member Crover continues, Number three, Code interpretation as to whether the applicant's outdoor compressed gas storage cabinet is permitted in the B-2 district, and if not whether a variance may be issued for its operation. First of all, we didn't even get to address whether we should issue a variance. If we need to do that, we'll address that at a later time. As far as the interpretation, the outdoor compressed gas storage is considered outdoor storage. I do believe in reading the code, regarding outdoor storage of building supplies, raw materials, finished products, fuel, machinery, equipment only when screened in a solid wall or fence. I don't think a small cabinet to store materials of trade constitutes outdoor storage, storage building, accessory use or any of those items as such are listed in the B-2 District forum. These are materials of trade used for the further operation. You have presented dimensions on the cabinet that you were going to use. I would like the cabinet and their dimensions be put in to our decision so that you or future owners, or future applicants before us with a similar situation don't say you let them put up a little cabinet, we want to put up a cabinet the size of this room. So we can insure that it's strictly materials of trade and it's not going to become a gas company selling gasoline, propane or acetylene. I would like the size of this cabinet be listed in our decision to show that it is a cabinet for materials of trade and therefore does not constitute outdoor storage of raw materials and such. The other item is the Fire Chief was advised of this and he has no problem with it, and with my background as past Fire Chief, it is always preferred that flammable materials like that be stored away from the office space. The same thing that people are not supposed to store gas cans in their home, but keep them outside stored in a shed. In my opinion this falls under the same routine. They are keeping it in the rear of the building so it is hidden and camouflaged so it is not seen from the public. I would like it stated in the decision that the location where they plan on putting it be noted so that it can be known that we did consider all those facts when coming up with this decision. I don't think we have to address anything else on the interpretation, I think we've covered everything. Anybody have anything else to add?

Member Schneider states that she wants it in the decision the dimensions of the cabinet as stated in the plans as 70" tall, 33" wide and 38" deep. Noted for the record

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There were no other comments.

Mr. Frascarelli adds that the variance application requires a SEQRA determination first. This was raised in the Notice of Public Hearing and the Environmental Impact for being considered at the Public Hearing. So if you wanted to issue a negative declaration pursuant to SEQRA that the variance won't any significant adverse environmental impacts. I would recommend making that motion first.

**Motion** made by Member Daly to issue a negative declaration under SEQRA regarding the variance portion of the application. Member Sainato seconded the motion.  
*All in favor.*

**Motion** made by Member Schneider to accept the draft decision subject to the revisions and additions discussed on the record regarding the three issues. The first being the code interpretation, the second being the area variance to eliminate the two parking spots and the third being the code interpretation for the outdoor compressed storage. Seconded by Member Daly. *All in favor.*

Mr. Frascarelli states that he will make a markup of the decision. We have five days to get a signed version. I'll send them to you via e-mail.

**Motion** to adjourn the ZBA meeting at 8:15pm was made by Member Schneider, seconded by Member Daly. *All in favor.*

Minutes Respectfully Submitted by:

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Barbara Singer – Deputy Clerk/Secretary