HARRISON PLANNING BOARD
MEETING MINUTES
AUGUST 7, 2019

Board Members Present: James Dayton, Richard St. John, Brian Spaulding, Colleen Densmore, Wendy Gallant, CEO John Wentworth, Assistant CEO Jim Fahey, Secretary Kristen MacDonald

Public Present: LRTV, Tom Hallworth, Dell Maxfield, Peter Moser Jr., Cynthia Moser, James Shaw, Tom Smith, Henry Shaw, Andy Shaw

The meeting was called to order at 6 pm by Chairman Dayton and a quorum was determined.

1. Old Business:

   a. Approval of the Meeting Minutes for July 3, 2019
      Wendy pointed out two errors to be corrected: The CEO present was Jim Fahey not John Wentworth and the date of the grant letter for the Food Bank may be incorrect. James stated that the corrections can be made and then approved at the next meeting. The Board all agreed with that.

      The Board signed the final plans at the end of the meeting.

2. New Business:

   a. Preliminary Subdivision Application - Thomas & Susan Hallworth – M54 L11-2 &11-3
      Mr. Hallworth is requesting an amendment for the addition of an easement across lot 3 for an existing common driveway. Richard stated that he is very familiar with this property and from looking at the packet and everything Dell Maxfield provided he would like to approve this subdivision amendment as presented. James moved, Richard 2nd that the application is complete as presented. All were in favor.
Richard moved, James 2nd to approve the subdivision amendment as Presented for Thomas Hildreth. All were in favor.

b. Preliminary Site Plan Review Application – Peter Moser Jr. – 344 Naples Rd.
Peter and Cynthia Moser are before the Board to discuss having a home Taxidermy business. The workshop/business would be out of their basement. The Board went over the checklist to see what is needed. Richard asked if there would be any wastes going down to the septic field. Peter stated no. Richard asked if there are any harsh chemicals that may be used and Peter responded lacquer thinner. Cynthia added that he cleans the hydes with Dawn dish detergent and Simply Green. James asked how he would dispose of the chemical waste and Peter was not sure yet so he would need to have that figured out for the next meeting. They would like to have a 3x3 sign with 2 solar lights pointing towards the sign on each end of the sign and would be about 10 feet from the road. The Board doesn’t believe there would be any impact on the road traffic. The Board would like a sketch of the sign. Applicant can bring what is needed to the next meeting in September.

c. James Shaw – 134 Zakelo Rd. – Demolition/Rebuild
Assistant CEO Jim Fahey explained the situation at hand: Mr. Shaw came in and got a permit to redo the building at 134 Zakelo Rd., they lifted it and put a new foundation underneath. There are pictures in their current application. There were some rotted floors etc as stated in the original application and they were very close to the limit, based on what John told him and what he could find, to the 50% rule. The original permit was done before he started working for the Town. The workers got to a point that once they put the building back down and started working on the inside that the roof timbers were bad and there were problems with one of the walls and a lot of bat and mice feces and mold so they stopped and came in to see what they would need to do moving forward. CEO John Wentworth wasn’t in the office at the time so Asst. CEO Fahey looked at their building folder and he made a mistake in that he did not realize it was an auxillary building, he thought when they said it was the library that it was part of the main building. Jim told them well you already have a permit so go ahead and make it safe because they had asked specifically to replace the roof timbers. CEO Jim told them if that’s what needs to be done then you don’t need an additional permit. So we are here today because it is actually an auxillary building. When he had told them to make it safe, somehow the building got torn down. Whether it was his miscommunication or misunderstanding, either way a demo permit should have been gotten and wasn’t. The only reason it has gotten to this point is that the cost factor is over 50% and by our ordinance it should be approved by the Board. There is no shoreland zoning violation here because it got permitted ahead of time. It’s just that once they got into the job it exceeded the estimated cost which is why they are before the Board today. It was a miscommunication on all sides and Mr. Shaw has been very honest and wants to preserve the integrity of the Town but they need to put a stop work order on it to make sure they are following the rules. He will need to fill out a new application and get them before pictures, same height, same footprint, same
square footage, nothing is going to change from the position of rehabbing the
building, except for the fact that once they got inside it didn’t make sense to
rehab it. He has asked for Jim Shaw and the builders to be here to answer
any questions and he himself would like to apologize for his mistake and for
putting them in this position.

Richard asked if this was before the Board last year to get the foundation in
before freezing weather and CEO Wentworth responded no. Wentworth stated
that Mr. Shaw’s was the last one under the previous ordinance that would have
allowed him to put a foundation under it as long as he wasn’t doing any
expansion. That ordinance has since been corrected. Chairman Dayton asked
if the Board would have to adhere to the old rules of the shoreland zoning or
because it was torn down, now it is under the new ordinance. CEO Wentworth
replied it is under the new ordinance and that it is the 50% (the value of the
building as it exists originally) issue that brings him here. The threshold is so low
that it makes it difficult to stay under that 50%.

Richard stated that it is clearly comes under the towns ordinance on page 6,
number 4, “reconstruction or replacement, any non-conforming structure that is
located at less than the required setback from a water body, stream or wetland,
which is removed by 50% or less of the market value or damaged, destroyed by
50 % or less of the market value of the structure, excluding normal maintenance
repair, may be reconstructed in place if a permit is obtained from the CEO within
a year of such damage, destruction or removal.” Richard added that if it’s rot
than the damage is done long before the one year of the damage.

Richard also read from the ordinance right below the previously read “In
determining whether the building reconstruction or replacement meets the
setback to the greatest practical extent, the Planning Board or its designee shall
consider, in addition to the criteria in Section 12(C) (3), the physical condition
and type of foundation present, if any.

Chairman Dayton stated the first thing he would like to add to this package from
Mr. Shaw is the new application and a plot plan. Jim Fahey has the application
and made copies for the Board. The plot plan turned in is the large size plan so
Mr. Shaw will need to get 6 smaller size plans to give to the Board.

Wendy Gallant asked if the auxilliary building is staying an auxillary building.
Jim Shaw said it is used for storage and overflow for sleeping. Wendy asked
if it had septic or water in it. Mr. Shaw replied that it was approved for a ¾ bath.

Tom Smith, Mr. Shaw’s lawyer spoke:
The summary from the Code Enforcement Officer was entirely accurate. This
was a situation where they just absolutely could not anticipate what they were
going to find when working on the building. The interior studs were basically
non-existent, there was rot, mold and animal feces. The foundation where it
is now was properly permitted, the application was properly made to the code
office anticipating what was going to be there. If you are going to get into a
situation where the building should be moved, which is part of what the ordinance pointed out, you are going to get into a situation where there is going to be a lot of soil disturbed and great potential for erosion. This building is fairly close to the water and is obviously non-conforming. To move it you are getting into a situation where your starting to encounter a slope, behind that there is a right of way, there’s a septic system. The least environmental impact would be to allow the foundation to remain, which was permitted.

Tom Smith commented that in this case there is not going to be any change of use, no expansion, there will be some addition to value because things will be safer and improved, but It’s not a dollar for dollar situation on the value.

Richard asked how much down to existing grade below this first floor level is the foundation exposed? Mr. Shaw said it’s at a slope but in the center is about 11 feet. Chairman asked how close to the water is the structure from the front edge. Response was about 6 feet.

Henry and Andy Shaw, the builders, spoke about the damage to the prior building. They stated that it was 20 feet from foundation to peak. Chairman Dayton replied the requirement is 15 feet maximum. So adjustments need to be made somehow.

Richard stated whoever issued the permit for the Aug. 7, 2019 application with an estimated cost of construction $50,000 on a $46,000 building should have been the first place to have a red flag. They have been led down the garden path, the building isn’t changing in size, but working with a clean slate because it was torn down.

CEO Wentworth told the Board, Do not confuse the first permit issued with the lack of a permit now, which is what Richard was doing when he said they were led down the garden path. Everything that was permitted prior to that, its extensive, you can look at the folder file on it, there was an architect. Everything that was permitted was permitted legally. The error came in the tear down. They were doing a repair until they tore it down. It exceeded 50 % of its value, was damaged and destroyed so it is a Planning Board call to determine setback. It is up to the Planning Board to do a site walk and make a determination on where it can be reconstructed or rebuilt. So that’s really what you’re here for to determine whether or not it can be rebuilt at its present location or it has to be moved back. Tom Smith commented that because the foundation that is there now was permitted it’s going to do a lot less damage to keep it where it is than to disturb soil and erosion potential. Also destroying the foundation that’s another potential for damage to the lake and better off leaving where it is.

Jim Shaw noted that he is in a jam now because the builders are not going to wait another month for the Towns determination on the setback to do the work and the building will be open to damage because of weather because of being partially constructed.
Chairman Dayton asked the Board if they would like to do the site walk in two Weeks. That way there is time to put out notification. CEO Wentworth mentioned that he believes they would also need a DEP Permit by Rule before the Board could make a decision. Typically they would apply for the Permit by Rule and if they haven’t heard within 14 days and they meet all the standards then it is deemed approved.

Wendy asked the Board, what is it that the Board wants to see when they do a site walk that they can’t determine here. Richard read from the ordinance “Determine whether the building relocation or in this case reconstruction meets the setback at its greatest practical extent. Planning Board shall consider the size of the lot, slope of the land, potential for soil erosion, location of other structures on the property or on adjacent properties, location of septic system and other onsite soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation.

Builder, Henry Shaw commented, we were told to do what we had to, and do not change the floor plan. We weren’t told we had to get a demo permit to do what we were doing, he knew we were going to change the roof. We weren’t told we needed a demo permit or we would have got one. We aren’t trying to sneak anything by you, time is of the essence because he is not going to have a contract a month from now. CEO Fahey replied that demolition was never discussed or brought up so I wouldn’t advise you to get a demo permit because it was never discussed. Henry said right and we didn’t know it either. Tom stated that it was never anticipated either.

Jim Shaw told the Board he appreciated them working with him.

There was discussion on the septic system.

The Chairman told Mr. Shaw to work on the DEP Permit by Rule.
CEO Fahey asked them to get 6 smaller copies of the plans for the Board.

3. **Next Meeting:**

   August 21, 2019 – Site Walk 6 pm (134 Zakelo Rd.) – meeting following

4. **Adjourn:**

   **James moved, Brian 2nd to adjourn at 7:35 pm. All were in favor.**

   ______________________________________
   Chairman James Dayton

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   Secretary Kristen MacDonald