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Chatham Planning Board

To the Members of the Planning Board:

I am emailing all of the below because I am going to be out of the country for a few days and will not be at the Planning Board meeting on Monday (March 18). I apologize for not giving more advance notice. I think all of the matters can be addressed without my presence.

I see only two items on the Agenda.

#2018-103: 15 Dardess Drive, Special Use Permit for Auto Repair Shop.

The main (but not the only) issues have been **noise, fumes & odors, lighting, and fire safety**. As to the first three, an important factor is that the surroundings of the proposed auto/tire shop are all part of the same parcel owned by the applicant. The primary concern of the Planning Board in relation to this kind of non-safety matter is impacts that affect other properties and property owners, although any possibility of unhealthy fumes should be fully addressed. In all matters of concern, the board should establish—**by written statements on the record and made part of the approval, if given**—that the plans, activities, and any mitigation measures will ensure that there will be no undue noise, odor, or light spillover to other properties. **Mitigation measures, and standards to be met, must be in writing.** Of particular concern is the potential **sound irritant of air-wrenches** used in tire service.

Above all, there is the issue of fire safety. In that regard, the Fire Department submitted its advisory letter, dated Feb. 21. The second page of that letter is especially important. It was noted that several things are necessary for proper fire safety, and that the applicant was able and willing to do them. (The letter refers to a letter from Mr. Apap, which you should review.) The requirement to implement these necessary measures must be shown by **written statements on the record and made part of the approval, if given.**

Specifically, the Department Chiefs advised as follows:

Given the nature of the increased hazard occupancy proposed, several questions were raised. In communication with Mr. Philip Apap, General Manager, Hudson River Contracting Corp., **it was determined that they have proposed appropriate plans to mitigate the potential hazards.**
Please see and refer to letter attached from Mr. Apap.

- The increased hazard questions that require special attention would be new and used **oil storage** location, new and used **fire storage** location; and **fire protection through the installation and use of ESFR sprinkler heads in these areas**. Given the increased hazard in this type of occupancy, the early detection and mitigation of a fire is imperative in order to allow time for responding fire fighters to contain such an event to that location.

- The fire department requests that the **Planning Board stipulate that this facility is protected by a 24-hour fire alarm system designed for this type of commercial property and such alarm is registered in compliance with the Columbia County Alarm Law**.

- In addition to the fire alarm, the Fire Department further requests that the Planning Board stipulate, should approval for the renovation be given, that this business **install a Knox Box style key safe on the exterior of the building, conspicuously mounted and that the installation be installed in coordination with the Fire Department to ensure that a key for entry is installed**.

- Given the observations and concerns presented above, the Department of Fire takes no issue with the renovation project, nor are there any serious fire or other hazards presented at this time that warrant the request for a denial. Provided that all NYS Building Codes and NFPA recommendations (where applicable) are followed for fire protection, there is **no external storage of tires or oil** and the recommendation for fire alarm and Knox Box installation are stipulated, the Fire Department would concur with any approval of this application.

If the Board is inclined to approve this permit, all of the **conditions** of approval, including **standards to be met** (i.e. off-site noise and light), statements of all **mitigation measures to be implemented** and significant **design elements, must be set out in writing and made an integral part of any approval**. If this requires that final approval be carried over to another month, that may be the way to go. At minimum, if the Board is fully satisfied that the proposal conforms to all requirements and has all the information that it needs, the Board could issue a conditional approval **subject to the issuance of a written set of conditions** as enumerated at this meeting or previously, including as set out in the Fire Department and Apap letters.

#2018-157: 7 Hudson Avenue, White Wolf Ventures LLC Applicant; Area Variance Application/Special Use Permit

This application was addressed by a letter from the Fire Department Chiefs dated Feb. 7, 2019. That letter outlined several very serious concerns about the ability to provide a sufficient, timely fire response to the location. The Board must carefully review this letter

in light of the safety issues raised, and adequate safety must be demonstrated in order to approve this application. The essential foundation of zoning authority is public safety, so it is essential that this be foremost in any decision. The Fire Department letter speaks to the need—at minimum—of installing **sprinklers** and **controlling parking** to avoid blocking access. **The letter also outlines other factors that interfere with access.** The Board must reconcile the proposal with essential safety issues, **as well as relevant provisions in the Code**, in order to warrant an approval.

Chatham Code 110-20 (Major Project Special Permit): Required findings. Before granting a major project special permit, the Planning Board shall make specific written findings that the proposed major project:

(e) Will have appropriate parking and be accessible to fire, police and other emergency vehicles.

Chatham Code 110-20 (Minor Project Special Permit): Required findings. Before granting a minor project special permit, the Planning Board shall determine:

(d) That all relevant site planning criteria in § 110-19F are satisfied.

110-19(F)(3)(e). All buildings shall be accessible by emergency vehicles.

A special permit is not available by right. These matters need to be satisfactorily addressed. It is possible that they cannot be.

Again, all of the **conditions** of any approval, including **standards to be met**, statements of all **mitigation measures to be implemented** and significant **design elements**, **must be set out in writing and made an integral part of any approval.**

Likewise, if the result is denial, the Board should **set out in writing** why the application/proposal failed to satisfy the Village's requirements and standards.

Either way, it could be appropriate to carry this over to next month for the issuance of a written determination.

Charron's. Debra told me that Charron's was not going to be on the Agenda for this month, but I want to update you on that matter. I have been cc'd on emails from Eric Schillinger (Charron's attorney) to Vincent Mackowski (Kneller's attorney), in which Schillinger asked Mackowski about the status of the easements. The latest was dated March 5. I have not been notified of any response, nor have I received any information to say that the easements have been executed. I emailed both attorneys yesterday (Friday,

Mar. 15) asking for a status update but got no reply. As far as I know, no easement documents have been executed.

In addition, I reviewed the draft easement documents and pointed out some necessary corrections. If the parties do show up with executed documents, they need to be correct. Most significantly, by far: the easement from Milap Seema to Black Point should be on the EAST side **of the boundary line** between the parcels, not the west, and the easement from Black Point to Milap Seema is on the WEST side **of the boundary line** between the parcels, not the east. The draft easements have it backwards.

There are other corrections, also. Please see the other attachments for them, and be sure that any submitted documents are consistent with the corrections shown in the attachments

Sincerely,

A handwritten signature in black ink that reads "Kenneth J. Dow". The signature is written in a cursive, slightly slanted style.

Kenneth J. Dow
Attorney for the Village of Chatham, NY