

# **APPROVED**

**HAROLD GARY**  
*Chairman*  
**RAYMOND COTE**  
*Vice-Chair*

## **BOARD MEMBERS**

**EMMA KOUNINE**  
**CARL GREENWOOD**  
**JOHN MOLLOY**  
**JAMES MEYER**  
**ANTHONY GIANNICO**

## **TOWN OF CARMEL** **PLANNING BOARD**



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**MICHAEL CARNAZZA**  
*Director of Codes*  
*Enforcement*

**RONALD J. GAINER, P.E.**  
*Town Engineer*

**PATRICK CLEARY**  
**AICP, CEP, PP, LEED AP**  
*Town Planner*

## **PLANNING BOARD MINUTES** **AUGUST 28, 2013**

**PRESENT:** CHAIRMAN, HAROLD GARY, VICE-CHAIR, RAYMOND COTE, EMMA KOUNINE,  
CARL GREENWOOD, JOHN MOLLOY, JAMES MEYER, ANTHONY GIANNICO

<b><u>APPLICANT</u></b>	<b><u>TAX MAP #</u></b>	<b><u>PAGE</u></b>	<b><u>TYPE</u></b>	<b><u>ACTION OF THE BOARD</u></b>
MacDonald Marine	76.20-1-13	1-6	Public Hearing	Public Hearing Closed.
Hudson Valley Credit Union	55.11-1-42	7	Public Hearing	Public Hearing Closed and Full Return of the Bond Recommended To Town Board
Carmel Centre Senior Housing (Pulte Homes) – Lots #3 & 5	55.14-1-11.1 55.14-1-11.3	7-14	Resolution	Motion to Table.
South Lake Plaza	75.44-1-65-67	14	Amended Site Plan	Denied to the ZBA.
Zephyr Farm	76.10-1-5	14-15	Amended Site Plan	Denied to the ZBA.
Ronin Property Group	74.11-1-20	15	Amended Site Plan	No Board Action.
Teakettle Heights Realty	76.17-1-19	15-16	Sketch Plan	Denied to the ZBA.
Dewn Holding	53.-2-28	16-17	Subdivision	Referred to the ECB.
Albano Estates V	55.14-2-26.31	17	Subdivision	Public Hearing Scheduled.
LaPorte, Andrew & James	53.-1-14&15	17	Subdivision/Merger	Denied to the ZBA.
Sosa Subdivision	86.12-1-34	18	Sketch Plan	Sketch Plan Approval Granted And Public Hearing Scheduled.
Yankee Development	76.15 -1-12	18	Ext. of Prel. Approval	Extension Granted.
Minutes – 6/26/2013 & 7/10/2013		18		Approved.
Executive Session		19		From 9:44 p.m. – 10:10 p.m.

The meeting was adjourned at 9:46 p.m.

Respectfully submitted,

Rose Trombetta

**MACDONALD MARINE – 681 UNION VALLEY ROAD – TM – 76.20-1-13 –PUBLIC HEARING**

Mr. Meyer recused himself and left the podium.

Mr. Carnazza had no comments.

Mr. Gainer stated there were no new comments, but some comments from the last meeting were an ECB wetland permit will be required and the applicant will be required to execute and file with the Putnam County Clerk a “Stormwater Control Facility Maintenance Agreement” The applicant should provide a quantity take-off of all site improvements planned, so that a performance bond amount, and associated Engineering Fee, can be calculated.

Mr. Cleary had no comments.

Mr. Gary addressed the audience and stated this is an open public hearing and asked if anyone in the audience wished to be heard.

Mr. Dwayne Tabacchi of Union Valley Road addressed the board and asked if the small building to the entrance of the property will stay intact.

Mr. Ken MacDonald, applicant replied yes.

Mr. Tabacchi stated he was concerned about the after-hours and weekend activity that was going on at the building. He said they are using it as a boat repair shop. He said in the past year he has had three incidences with the auto body using paint and was polluting the area. He said if you are going to allow this building to go up, I would like to see the existing building come down for the betterment of the neighborhood.

Mr. MacDonald stated the body shop is no longer there and it hasn't been in use for about eight months. He said it was an upholstery shop for 18 years and the body shop was there for about a year.

Mr. Gary asked what will happen to the building?

Mr. MacDonald stated the building will remain. I will be using it.

Mr. Cote asked you will not be renting it to another tenant?

Mr. MacDonald said I will personally be using it.

Mr. Molloy asked if there will be boat repair at that building.

Mr. MacDonald stated he may do minor repairs, but will not do any body work.

Mr. Molloy stated so if there is an approval, you would have no objection to making it a condition.

Mr. MacDonald I have no objection, there will not be a body shop.

Mr. Gary asked Mr. Carnazza what was permitted there.

Mr. Carnazza said you cannot put a body shop there today. You would need a booth and approval from the State, but that is not allowed there. He said this is a storage building. You may be able to do minor repairs.

Mr. Tabacchi said if that building remains there will always be a temptation to rent it out. What's the difference between major and minor repairs?

Mr. MacDonald said I do not do body work.

Mr. Tabacchi said the building is dilapidated and it's on its way down. Why not just take it down and there won't be an issue.

Mr. Gary said it is up to Mr. MacDonald on whether or not he wants to eliminate the building.

Mr. Greenwood asked what is the square footage of the existing building.

Mr. MacDonald said 12' x 30'.

Mr. Greenwood asked what is the square footage of the proposed building.

Mr. MacDonald said about 220,000 square feet.

Mr. Greenwood said to appease everyone, why not look at the possibility of eliminating that building and add an addition to what you are putting up. He said all your operations would now be in one spot on the property and it would eliminate any future issues that may or may not arise.

Mr. Dan Donahue, Applicant's Engineer addressed the board and stated our intent is to build a building for the storage of boats not to have an engine repair shop on the site. He said we do not water, septic and well on the property. Also, if we increase the size of the existing building it will increase the disturbance area and we would have to go back to the DEC and DEP.

Mr. Greenwood said you are either going to use or not use the existing building.

Mr. MacDonald stated I would like to use if for shrink-wrapping.

Mr. Greenwood stated I think you could solve the issue by adding the square footage to the new building or at least come up with a good reason why you can't.

Mr. Donahue stated this building has been on the plan from the beginning of the planning board process.

Mr. Greenwood stated I realize that it's been there since the beginning, but it's the first time the issue came up in front of us.

Mr. Donahue stated what if we agree to put a note on the drawing that prior to the use of the existing building that we would go before the Building Inspector to review the use.

Mr. Greenwood stated I would like it shown to us why you can't.

Mr. Donahue stated we will be increasing the disturbance area and we would have to start over with the permit process with the state and city.

Mr. Carnazza said it would have to go to the planning board for any use other than storage.

Mr. Molloy suggested instead of adding on the new building, why not partition a corner of it to make it an office.

Mr. Donahue stated the space will get used up very quickly with the storage of the boats in the building.

Mr. Gary asked Mr. MacDonald if he was willing to screen off the existing building with a fence.

Mr. MacDonald replied absolutely. We will put up a stockade fence.

Mr. Gary stated Mr. Greenwood has a good idea, but we can't make you take that building down. Would you agree to certain obligations that the building could be used for?

Mr. MacDonald replied absolutely.

Mr. Gary asked Mr. Cleary if that was a reasonable solution.

Mr. Cleary stated it would have to be established as an enforceable mechanism, such as a note on the plan or deed restriction.

Mr. Gary asked Mr. Tabacchi if that was acceptable.

Mr. Tabacchi replied I don't think so.

Mr. Gary stated with all due respect that building is on the plan and has been there since the beginning. It is the board's obligation to hear from the public what they deem will be an inconvenience or objectionable to them. He said we are here to help you as well as the applicant. You both have that right. He said the board will probably be in agreement with removing the use and screening the building.

Mr. Tabicchi stated just to confirm there will not be any minor repairs or shrink-wrapping done.

Mr. MacDonald stated that's not it. It's not going to be used for body work.

At which time a further discussion ensued regarding the use of the existing building and the use of shrink-wrapping.

Ms. Kounine stated I don't think shrink-wrapping would make that much noise as the body shop did. I would be in favor of putting a restriction of any body work of any kind allowed in that building.

Mr. Gary said we could settle this whole thing if you make it an office building.

Mr. Tabacchi said I have no issue with an office building.

Mr. Gary asked the applicant if he agreed with that.

Mr. Donahue said I don't see a major problem with shrink-wrapping boats in October.

Mr. Cote asked why is it necessary to shrink-wrap on the driveway of the existing building as opposed to doing it at the proposed building.

Mr. MacDonald stated all the heavy tools necessary to shrink-wrap are at the existing building.

Mr. Gary stated if the board agrees, I want the applicant, Mr. Cleary and Mr. Carnazza to work together on uses of the existing building, so it does not entertain machinery and other things that would be contrary to what should be in that zone.

Mr. Greenwood asked where on the plan is the staging area to shrink-wrap boats. All it shows is a driveway.

Mr. MacDonald stated all I want to do is use the building for office space and to shrink-wrap a boat every now and again. I have no problem with having a restriction of no body shop and/or full scale repair shop.

Mr. Gary asked if there is any noise or smell with shrink-wrapping.

Mr. MacDonald replied no, it's just plastic.

Mr. Gary addressed the applicant and said you are putting up the fence and you will discuss with the Planner and Building Inspector the uses for the office building.

Mr. MacDonald said that's fine.

Mr. Nicholas Thompson of Union Valley Road addressed the board and stated when he purchased his home in 2002; it was told to him that the building on Mr. MacDonald's property would only be used for storage. He said there have been various commercial activities going on there. He asked what would be his legal recourse if it reverts back to commercial use.

Mr. Carnazza said to call his department.

Mr. Thompson said so it is only zoned for storage.

Mr. Carnazza said yes.

Mr. Thompson said so no repairs of any kind should be going on there. Do I have any legal right to go on the property and look?

Mr. Carnazza replied no, you would have to either call the Police Department or myself.

Mr. Thompson thanked the board.

Mr. Tabacchi approached the podium again and stated if it is only storage why are we allowing the use of shrink-wrapping? That's not storage.

Mr. Carnazza stated shrink-wrap could be considered as an accessory, but it would be up to the board to determine that.

Mr. Greenwood stated that's the problem. He said if you shrink-wrap the boats to go into the building that would be an accessory to the storage of boats, but it's not, because the applicant said it is being utilized to shrink-wrap boats that are taken to the site and out of the site and aren't being stored on the site.

Mr. Molloy stated he was not in favor of this application, but it would probably be approved. He said if it is approved we want to see a local business succeed. Shrink-wrapping a boat in September and October is an innocuous thing. He said I think shrink-wrapping a boat is incidental to storage. I am in favor of shrink-wrapping, but against the whole thing.

Ms. Kounine said this is an applicant who owns a marina and offers marine type services. She said that's all shrink-wrapping is, a minor service as part of his business and it is an accessory to it.

Mr. Cote agreed with Ms. Kounine and Mr. Molloy, but we need to hear an unequivocal answer that engine work will not be done on the property. I don't hear a clear answer.

Mr. MacDonald stated there absolutely won't be any engine work done on the property.

Ms. Kounine said the condition will be no body repair shop of any type.

Mr. Carnazza stated the code says no new auto body shops are allowed in the town, but you could put a note on the map anyway.

Mr. Douglas Kim addressed the board and stated he lives directly across from the property on Union Valley Road. He said there has been a discussion about what storage entails. I would like to see a list of what related services are connected to storage. He said if you open the door for shrink-wrapping, you are opening the door for other things. It should be explicit.

Mr. Giannico asked Mr. MacDonald what the protocol was in winterizing a boat that would be stored in someone's driveway.

Mr. MacDonald stated winterizing boats are done at the marina on the lake. I do a lot of the shrink-wrapping at the marina. This site would be ancillary. I want to keep it as office space. The property has been in use for over 80 years. It is basically a junkyard. I want to clean up the property and put up a nice clean looking storage building to house boats. I want to keep the existing building for office and maybe shrink-wrap an occasional boat. I do not want to offend my neighbors. They could come and speak to me at any time. This has been going on for four years. I have been in front of the planning board, zoning board and ECB. I am trying to do the right thing.

Mr. Gary stated I personally do not see a problem with the shrink-wrapping, but I want you to meet with the consultants. Our main obligation is that proposed building is not exposed to the neighborhood and you are putting up a fence along the existing building.

Mr. Greenwood stated he wanted to clarify that his impression was that most of the shrink-wrapping would be done at the site. The applicant just said that most of it would be done at the marina, so if this is just an intermittent thing, then it takes away my issues. I have no problem with an office building.

Mr. Kim returned to the podium and asked if he should expect to have an explicit list of activities.

Mr. Gary said the applicant will be storing boats on the site. The accessory part of it, such as shrink-wrapping will be discussed by the Building Inspector and the applicant.

Mr. Kim stated my issue is not with the shrink-wrapping. My issue is what other activities there might be in addition to shrink-wrapping.

Mr. Cleary stated after this meeting, we will try and define it, so there is a list. You will know explicitly what is and isn't allowed.

Mr. Kim said that's fine.

Mr. Gary asked if anyone else in the audience wished to be heard.

Mr. Greenwood moved to close the public hearing. The motion was seconded by Ms. Kounine with all in favor.

Mr. Meyer returned to the podium.



**HUDSON VALLEY CREDIT UNION – 2 TERRACE DRIVE – TM – 55.11-1-42 – PUBLIC HEARING**

Mr. Carnazza had no comments.

Mr. Gainer stated all site improvements have been completed and we recommend complete return of the bond.

Mr. Cleary had no comments.

Mr. Gary addressed the audience and stated this is an open public hearing and asked if anyone in the audience wished to be heard.

Hearing no comments from the audience, Mr. Greenwood moved to close the public hearing. The motion was seconded by Ms. Kounine with all in favor.

Mr. Greenwood moved to recommend full return of the bond to the Town Board. The motion was seconded by Ms. Kounine with all in favor.

**CARMEL CENTRE SENIOR HOUSING (PULTE HOMES) – LOTS 3 & 5 – TERRACE DR. – TM – 55.14-1-11.1&11.3 – RESOLUTION**

Mr. Carnazza had no comments.

Mr. Gainer had no comments.

Mr. Cleary stated you have two separate resolutions before you.

Mr. Gary asked the board if they had any comments before they move on.

Mr. Greenwood asked Mr. Lynch if he met with the Fire Department yet.

Mr. Paul Lynch of Putnam Engineering, representing the applicant stated someone from the Fire Department contacted our office today and asked specifically about the details for the item 4 road that's going behind building 37. The detail was sent to him, but we didn't get a response back.

Mr. Gary addressed the audience and stated we have spent a lot of time on this application and all of the concerns that were raised were answered. We have held a public hearing that stayed open while we went through the process. We have accomplished what we as a board think is a reasonable advantage. Mr. Gary asked Mr. Cleary to go over the process that the board went through and was satisfied with the answers of concerns that were raised by the public and board.

Mr. Cleary stated as everyone is aware there were a great deal of comments delivered throughout the deliberations on this application. We collected all the comments and they were itemized by category and delivered to the applicant. We have spent the past month dealing with the applicant and addressing all of the issues. A number of the issues related to the existing development and will be dealt with differently than the developments of lots 3 and 5. He said all the issues with respect to lots 3 and 5 have been physically resolved



in one way or another or carried as conditions of approval in the resolutions you have before you or are reflected on the site plans.

Mr. Greenwood stated he personally spoke to the Assistant Fire Chief of the Carmel Fire Department last night. He said the chief has made numerous calls to both Pulte Homes and Putnam Engineering and did not receive a call back. I instructed the Chief to call you today which is why he called you again today.

Mr. Lynch stated today was the first time we got a phone call from the fire department. I never received that information in my office. We have no problem with meeting with the chief and if they want us to make a change or modification, we don't have a problem with that.

Mr. Meyer asked if we could make it a condition in the resolution that there will be a follow-up with the fire department.

Ms. Kounine said what we could do is, if the resolution is approved, the Chairman does not sign it until after the Carmel Fire Department Chief is satisfied with the information he has.

Mr. Cleary said there is no reason why we couldn't add that to the resolution.

Mr. Greenwood stated he had a question with regards to the recreation space. He asked if the designation of there being a lawn still exists.

Mr. Cleary asked if he was referring to the play field area.

Mr. Greenwood replied yes.

Mr. Gainer stated now there is much more definition as to the specific area that is clearly identified as a play field on lot 3. The space is identified both by fencing and benches. For lot 5 there is an open area that is being fenced with benches that is adjacent to the proposed clubhouse.

Mr. Greenwood said so other than a line on the map it now has a fence around it.

Mr. Gainer replied yes, and it is more clearly defined by benching.

Mr. Cleary said it remains a grass level field.

Mr. Greenwood stated he has an issue with the idea of it not actually having a physical recreation use or activity.

Mr. Carnazza said the code does not specify recreation use.

Mr. Cleary stated even if that were deducted, they will still meet the requirement for recreation space. The applicant elected to build a grassy field and call it a recreation area. This is additional, above and beyond the requirement.

Mr. Greenwood stated if it is beyond what is required, I don't see the necessity of putting a fence around it. I think it makes it worse. Why designate it as recreation?

Mr. Molloy stated you could do more on the field that doesn't have a fence around it.

Mr. Greenwood said if it is not necessity why not just eliminate it. It wouldn't preclude the residents from using that lawn for the purpose they see fit.

Mr. Gary asked a fence was put around it.

Mr. Lynch stated the fence runs on one side where there is a steep slope for protection.

Mr. Greenwood said if it is that sloped, then it is a hazard and more of a reason not to designate it recreation space. I am totally against the idea of designating it as any kind of recreation space. It's not required.

Mr. Gary said if one side is very steep, whether or not it is recreation and there is a fence, it would offer protection for the residents. I don't see anything wrong with having the fence.

Mr. Giannico stated it should be eliminated and to call it an open grassy area. As far as the fence is concerned either way is fine with me. I don't have a problem with it staying.

Mr. Lynch stated we would prefer to leave the fence up.

Mr. Mullen said regardless of what we call it, the fence needs to be there.

Mr. Greenwood said that's fine, keep the fence and eliminate it as being designated as a recreation area and call it a lawn.

Mr. Gary agreed with Mr. Greenwood and said keep the fence.

Ms. Kounine asked Mr. Lynch to clarify what section plan of site plan means on the resolution.

Mr. Lynch stated that shows what buildings will get built in which order. It's a construction sequence.

Mr. Cleary said the approval before you is for one site plan, one development. It's not phased in any manner, but there is a construction sequence of how the development will occur.

Mr. Lynch said certain units get built and certain recreation gets built, so that we meet our criteria for having recreation in order to be able to get a certificate of occupancy.

Mr. Greenwood said so it will follow the same criteria as lot 4 did. My issue is taking an 81 unit and 27 unit lot and using the criteria we used previously on the larger count is ridiculous. We should have learned our lesson. There is absolutely no reason why the 81 unit senior housing project can't follow the criteria as every other senior housing project has, which is the completion of the construction along with the amenities and the site plan before you are issued a certificate of occupancy. It shouldn't be a consideration. There is no reason why you can't build 27 units or 81 units of housing and complete the entire site plan.

Mr. Molloy asked Mr. Greenwood if he would be in favor or temporary certificate of occupancies.

Mr. Carnazza said I am not in favor of temporary certificate of occupancies.

Mr. Molloy said so they would have to sell all 81 units before the first certificate of occupancy.

Mr. Greenwood said what it means is all the amenities, the entire infrastructure along with the buildings have to be completed before a certificate of occupancy is issued. I don't think that is a burden. So when someone moves into one of the units, all the amenities are there. Everything should be completed. By sequencing this, where does it end? People of lot 4 are still dealing with construction issues. The sooner it gets done the better.

Mr. Mullen said there is a sequence in construction. It has worked on lot 4.

Mr. Greenwood said it has worked for you on lot 4; it hasn't worked for anyone else. He said give me a logical reason why you can't complete 27 houses on one lot.

Mr. Gary asked why do you want to do it the sequence way.

Mr. Mullen said because that's the way construction is done. You build a certain area, you have a pad graded, and then you build a building, people move in and we move on to the next section. You build the amenities at the same time. It's a sequence of construction that works.

Mr. Gary said you need the capital as you progress.

Mr. Mullen stated that's also part of it. We build models, but we don't build the actual house until it's under contract, otherwise the house sits there and decays while we wait for someone to move in.

At which time a further discussion ensue regarding sequencing for lots 3 and 5 among the board member and applicant.

Mr. Carnazza asked Mr. Greenwood to clarify what he said earlier, to build everything but the units.

Mr. Greenwood stated what he said was how it was originally written in the town code. A site plan requires everything to be constructed before a certificate of occupancy is issued.

Mr. Carnazza said I thought you said build everything but the units.

Mr. Greenwood said I think we learned our lesson. I think we learned why we shouldn't ever consider this again. It's against my opinion. We allowed it to be done once and just like any other mistake it doesn't mean we have to do it twice.

Mr. Mullen asked what does the town code actually say.

Mr. Carnazza said no certificate of occupancy shall be issued until the site is completely done.

Mr. Gary said I'm not interested in what it says. I'm interested in what we allowed them to do on lot 4.

Mr. Carnazza said on lot 4 you allowed them to get certificate of occupancies in sections, provided that they met all sections of the code during construction.

Ms. Kounine asked Mr. Cleary if he recalled any other application where this was done.

Mr. Cleary stated he doesn't recall any other application.

Mr. Gary said this is the first.

Mr. Mullen asked if there were any other projects like this.

Mr. Greenwood said we have had other senior projects.

Mr. Mullen said as big as this.

Mr. Gary said no.

Mr. Mullen said this code is really for smaller lots. That's why we went that route. It won't be built if we go by that code. It works this way.

Mr. Molloy stated we have allowed the applicant to get certificate of occupancies as long as the recreation was done. I don't understand what the fight is about.

Mr. Gary said the fight is about the resolutions.

Mr. Molloy asked if it was in the resolution.

Mr. Greenwood said it's on a plan. It's the last map listed in the resolution. He said to put in simplest terms when they were originally in front of us and they went to the sectioning, it was if you built 20% of the recreation you could get 20% of the certificate of occupancies. He said if you read the town code, for multi-family senior housing or any other multi-family project, the site plan has to be complete before a certificate of occupancy is issued. Where we deviated was when we started going to percentages. We didn't do it with Hillcrest Commons or Hughson Commons.

Mr. Meyer asked Mr. Greenwood if 100% of the amenities and infrastructure is complete and the first house is built, you would be okay with that house getting a certificate of occupancy? Basically, everything else is complete except the houses. Is that what you are saying?

Mr. Carnazza said that's what I thought Mr. Greenwood said at first.

Mr. Greenwood said the code blankets senior multi-family housing. He said a site plan is what this is.

Mr. Carnazza said the code reads no certificate of occupancy for any structure or use upon or within the site shall be issued until all of the required conditions of site plan approval have been met. The continued validity of any certificate of occupancy shall be subject to continued conformance with approved site plan and conditions thereof. He said basically,

it says you need to build the whole site plan. He said the last time your board waived portions in whole or in part as the code reads. That's why you did it on lot 4.

Mr. Greenwood said I am willing to follow the town code this time.

Mr. Mullen said then it will never be built.

Mr. Cleary stated to the board you will need to make a decision. If you are willing to do what you did for lot 4, otherwise Mr. Greenwood's and Mr. Carnazza's reading of the code requires the applicant to build all those units before a certificate of occupancy is issued.

Mr. Mullen said that's impossible. No builder in this country would spend all that money and wait and let the houses sit until someone buys them. It's a nightmare and that's why we did it the other way.

Mr. Gary asked Mr. Charbonneau his opinion.

Mr. Charbonneau said we had substantial problems with respect to the issuing of unit specific certificate of occupancy during the phasing process. It posed a difficulty for the building department to determine what was and was not complete. There is an inherent difficulty with doing it that way, however I recognize the fact that the applicant doesn't have a market until such time he could have a prospective buyer give input as what they want in a proposed construction.

Mr. Giannico stated the way our current code reads we cannot allow this to happen.

Mr. Carnazza said the last time this came up, the attorney determined that the board is allowed to amend or waive portions of the code in whole or in part.

Mr. Giannico said what we have in front of us is a proposed track development. What is being proposed is not uncommon to the standards around the country in building track developments. That's my opinion.

Mr. Carnazza said but it violates our code.

Mr. Giannico said unless we make an exception and if we don't make an exception we going to have a barren mountain sitting up there. He asked if they will be willing to build all of the recreation space and infrastructure to avoid the issues with the building department.

Mr. Mullen said most of the roads that lead to the houses are put in already.

Mr. Greenwood said you will end up with the entire mountainside torn apart with no guarantee of any of those units getting built or finished until he sells them.

Mr. Mullen said it's that way today.

Mr. Greenwood said and we've proven why it's a mistake.

The board and the applicant continued the discussion of sequencing.

Mr. Gary stated tonight is not the time to argue about this for the simple reason that we have something that was permitted by this board legally. He said we have these resolutions before us and we need to clear up these resolutions tonight, that's what this board needs to do.

Mr. Meyer asked by passing these resolutions do they have to adhere to the town code?

Mr. Gary replied no they do not.

Mr. Carnazza said you would be amending the town code with the construction sequence plan in the resolution.

Mr. Cleary explained that the construction sequence plan calls for the evolution of the development of the site. It doesn't require it to be done all at once by virtue of that drawing included in the package of drawings. He said there is no language that clarifies it, so whatever you do; we will have to insert language clarifying it one way or the other. But, if you didn't do anything that construction sequence would allow them to build lots 3 and 5 the way they built lot 4.

Mr. Charbonneau stated if you are looking for further clarification and better language within the resolution we could table this for purposes of adding additional language and circulating it among the board. That would probably be the best way to handle this if there's an issue.

Mr. Cleary asked the board for direction in which way to go with this.

Mr. Gary stated this board allowed this go, so if we want to stop it and go in a different direction can we legally do that?

Mr. Charbonneau said I would want to spend more time researching that.

Mr. Cleary said based upon the conservation this evening, the prudent thing to do is get opinion from counsel as to whether you can change the policy you have established on lot 4 for lots 3 and 5.

Ms. Kounine said it's not a policy, it's the first time in over 30 years that it's ever been done. She said these are all separate applications, do we want to keep what the town code says or do we want to waive it like we did with lot 4 or come up with another solution.

Mr. Greenwood said other than a financial gain to the applicant there is absolutely no benefit whatsoever to the town to continue it.

Mr. Gary said that's not the issue tonight. He said if you disagree with what something that was done 5 years ago, that's fine. The board made that decision on the advice of the planning board attorney at the time. We are not going to sit here and criticize what was done. If we want to change paths, then it's up to this board to discuss it privately to determine what we want to do, not to sit here in the public and argue about it. That's the proper way to do it. He said we either make a motion to table this or vote on the resolution.

Mr. Meyer moved to the table the application. The motion was seconded by Mr. Greenwood.

A roll call vote was taken as follows:

Mr. Meyer	For the motion
Mr. Giannico	For the motion
Mr. Molloy	For the motion
Mr. Greenwood	For the motion
Ms. Kounine	For the motion
Mr. Cote	For the motion
Mr. Gary	For the motion

Mr. Mullen asked how long is this going to take?

Mr. Gary said it will be tabled to the next meeting.

**SOUTH LAKE PLAZA – SOUTH LAKE BLVD & CLARK PL – TM – 75.44-1-65-67 – AMENDED SITE PLAN**

Mr. Carnazza said a use variance is required from the Zoning Board of Appeals. The existing apartments are legal, however to expand and add more apartments, they need a variance.

Mr. Gainer had no comments.

Mr. Cleary stated the applicant has clarified that the encroachments in the right of way for the State and Town were acceptable for both agencies. The next step is a referral to ZBA for a use variance.

Mr. Molloy asked how could the Zoning Board permit something that the Town Board has forbidden?

Mr. Carnazza said by granting a use variance.

Mr. Molloy said then these applications should go to the Town Board.

Mr. Cleary said the standards for a use variance are very high, such as self-created hardship and financial hardship.

Mr. Greenwood moved to deny application to the ZBA. The motion was seconded by Mr. Cote with all in favor.

**ZEPHYR FARM – 219 WATERMELON HILL ROAD – TM – 76.10-1-5 – AMENDED SITE PLAN**

Mr. Carnazza read his memo which stated the applicant proposes to cover an existing riding ring. Variances are required from the ZBA.



Mr. Gainer read his memo which stated at the last meeting, the Board directed the applicant to provide additional site information so as to allow the Board to better evaluate the development concept. This latest plan now more clearly identifies existing conditions at the site. The applicant has requested a waiver from the Town Code requirement of providing topographic information, which we have no objection to since the proposal is merely to cover an existing paddock. Once the Board is prepared to move the application forward, the only technical matter remaining would be for the applicant's Architect to provide a quantity estimate of the proposed improvements, for purposes of developing a performance bond amount and related Engineering Fee.

Mr. Cleary read his memo which stated the applicant has clarified that the proposed paddock enclosure is not intended to allow for an expansion of the operation or capacity of the Zephyr Farm operation. It is intended to allow riding to occur during inclement weather. The site plan now indicates the required setback and minimum floor area variances that must be obtained. The site plan now includes the proposed lighting, which includes a single 200-watt floodlight located on the north (interior) side of the enclosure. No additional exterior lighting is proposed. The location of the manure storage container is identified on the plan, along with a note requiring it to be emptied weekly. The next step is the Zoning Board of Appeals.

Mr. Meyer moved to deny the application to the ZBA. The motion was seconded by Mr. Molloy with all in favor.

#### **RONIN PROPERTY GROUP – SECOR ROAD – TM – 74.11-1-20 – AMENDED SITE PLAN**

Mr. Carnazza read his memo which stated the applicant proposes to change the approved 2 story building to a one story building and add a drive through lane to the side of the building. At the rear left side of the building, the traffic circulation does not work. The vehicles in the drive-through lane cannot stay in the lane as they turn 90 degrees at the building corner. The turn needs to be widened and a bollard placed at the corner. A wetland permit is required from the ECB. Is there a detention pond? Discharge from storm basins?

Mr. Gainer read his memo dated August 26, 2013.

Mr. Cleary read his memo dated August 26, 2013.

Mr. Gary said to work out all the concerns with the consultants and then come back to the board.

#### **TEAKETTLE HEIGHTS REALTY – 103 TEAKETTLE SPOUT ROAD – TM – 76.17-1-19 – SKETCH PLAN**

Mr. Carnazza read his memo which stated the applicant proposes to subdivide an 18.14 acre parcel on Teakettle Spout Rd. in Mahopac. This lot was previously before the board as "Kroell Subdivision". Provide a list of any and all variances granted. (The Engineer claims that there are no variances granted but after reviewing the Building Dept. file, I found one variance from 2/1987). This project must be referred to the ECB for comments.

The Lot depth lines exit and re-enter the two lots. Variance required from the ZBA. Variances are required for frontage for the two lots. 100 ft are required. The lot width lines are required to be drawn on the plat perpendicular to and at the midpoint of the lot depth line. The lines are not at the midpoint.

Mr. Gainer read his memo which stated while it is acknowledged that many technical comments contained in my earlier memorandum of July 23, 2013 are not specifically required for "Sketch Plan" approval, my intention is always to provide as much guidance to applicants as possible, to hopefully minimize the need for continuing re-submittals of technical plans and thereby reduce the overall effort required to advance through the Planning process. That being said, most comments contained therein remain to be addressed by the design engineer.

Mr. Cleary read his memo which stated the applicant has acknowledged that a referral to the ECB will be required for this project. The Sketch Plan has been revised to indicate the location of the existing homes along Teakettle Spout Road (in the Rolling Hills Subdivision). An aerial photograph has also been provided which depicts the existing home locations in relation to the proposed lots. The proposed dwelling on Lot 1 is approximately 140' from the nearest neighboring residence. The proposed dwelling on Lot 2 is approximately 180' away from its nearest neighbor. The topography in these areas is relatively flat between the homes, and while some existing vegetation remains within the boundary of the site, it is not particularly dense, nor does it offer a visual buffer. Given the fact that the new lots are indeed flag lots, and would situate the front yards of the new homes behind the existing homes, the rear yards of the existing residences (the more private portion of these lots) would be impacted by the proposed development. It is therefore recommended that supplemental buffer screening be provided along the rear of the two adjacent residences in the Rolling Woods Subdivision. The applicant has clarified that the "jog" in the proposed property line is a result of the location of the already approved septic area on Lot 1. The creation of straight logically bearing property lines remains a primary objective of the subdivision approval process. While it is acknowledged that the septic system on Lot 1 already has Health Department approval, the septic system on Lot 2 has not yet approved, and must go through the Health Department approval process. As such, and given the fact that the subdivision as a whole still requires Health Department approval, can the septic system on Lot 1 be reconfigured so that the property line runs in a straight line from the front of the parcel to the rear? The applicant has indicated that they would be willing to forgo any future subdivision and development of the two new lots. The recommended method to achieve this is via a deed restriction as well as a note on the subdivision plat.

Mr. John Karell, applicant's Engineer addressed the board and stated they would consider reconfiguring the septic system as Mr. Cleary said, but would like to go to the ZBA for the frontage. He said if we don't get the variance we have nothing.

Mr. Greenwood moved to deny the application to the ZBA. The motion was seconded by Mr. Meyer with all in favor.

#### **DEWN HOLDING – MEXICO LANE – TM – 53.-2-28 – FINAL SUBDIVISION APPROVAL**

Mr. Carnazza read his memo which stated is the plat a Final Plat? Preliminary? Must be labeled properly so I know which stage I'm reviewing for.

Mr. Gainer read his memo dated August 26, 2013.

Mr. Cleary stated he had no further comments.

Mr. John Karell, Applicant's Engineer addressed the board and stated a small portion of the driveway and detention pond is in the buffer of a NYS regulated wetland. The application is being processed.

Mr. Carnazza stated the applicant also needs a Town of Carmel wetland permit.

Mr. Greenwood moved to refer to the ECB. The motion was seconded by Mr. Cote with all in favor.

**ALBANO ESTATES V – 18 MECHANIC STREET – TM – 55.14-2-26.31 – 2 LOT SUBDIVISION**

Mr. Carnazza stated all comments have been addressed.

Mr. Gainer had no comments.

Mr. Cleary stated all planning comments have been addressed.

Mr. Gary said to schedule a public hearing.

**LAPORTE, ANDREW & JAMES – PEEKSKILL HOLLOW ROAD – TM – 53.-1-14 & 15 – SUBDIVISION/MERGER (LOT LINE ADJUSTMENT)**

Mr. Carnazza read his memo which stated The Planning Board now has the authority to approve LOT LINE ADJUSTMENTS by code. If the applicant wishes to amend the map to comply with the new code, I will meet with the designer and explain the procedure. Provide lot depth and lot width lines. Variances are required for lot 1 for two sheds. How many total dwelling units are there on each of the lots? My records show two dwelling units on each lot. The altering of two non-conforming lots necessitates a variance from the ZBA.

At which time a discussion ensued regarding the new code regarding lot line adjustments.

Mr. Carnazza stated an applicant would still need to go to the planning board, but it would be an abbreviated review. You do not have to do a subdivision review anymore.

He said they have to go to the ZBA because they have two units on each of the two lots.

Mr. Gainer had no comments.

Mr. Cleary stated Mr. Carnazza is correct. They have to go to the zoning board for those multiple units. That's the next step with this application.

Mr. Meyer moved to deny the application to the ZBA. The motion was seconded by Mr. Giannico with all in favor.

## **SOSA SUBDIVISION – GLENACOM ROAD – TM – 86.12-1-34 – SKETCH PLAN**

Mr. Carnazza said all comments have been addressed.

Mr. Gainer read his memo which stated a Town of Carmel Highway Department work permit will be required for any new driveways proposed. Various drainage improvements may be required at the frontage of the property as part of any such permit issued. Further, the on-site facilities must not impede any existing roadway run-off which may enter the tract. The applicant has indicated that an initial submission has been provided to the Highway Department. As the subdivision plans are refined, all missing elements mandated by §131-13 ("Preliminary Plat") of the Town's Subdivision Ordinance should be incorporated into the drawings. The following referrals would appear to be warranted: Putnam County Department of Planning (GML 239n referral; proximity to County boundary. Town Highway Department for (driveway access). Should any public improvements be deemed necessary as part development of the tract, a Performance Bond and associated Engineering Fee must eventually be established for the work.

Mr. Cleary stated all his comments have been addressed. The next step is sketch plan approval and a public hearing.

Mr. Greenwood moved to grant sketch plan approval. The motion was seconded by Ms. Kounine with all in favor.

Mr. Gary said to schedule a public hearing.

## **YANKEE DEVELOPMENT – PIGGOTT ROAD – TM – 76.15-1-12 EXTENSION OF PRELIMINARY SUBDIVISION APPROVAL**

The consultants had no objection to the extension of approval.

Mr. Molloy asked what the reason for the delay was.

Mr. Ed Delaney of Bibbo Associates, representing the applicant stated the project is still under NYCDEP review.

Mr. Gary asked Mr. Delaney to get a letter from DEP stating this application is still under their review.

Mr. Delaney stated we will forward the review letters to the board.

Mr. Greenwood moved to grant extension of preliminary subdivision approval. The motion was seconded by Ms. Kounine with all in favor.

## **MINUTES – 6/26/2013 & 7/10/2013**

Mr. Molloy moved to adopt the June 26, 2013 and July 7, 2013 minutes. The motion was seconded by Mr. Greenwood with all in favor.

## **EXECUTIVE SESSION**

Mr. Charbonneau stated to the board that he needs to speak to them based on attorney client privilege. He said you could either close the meeting or form into Executive Session at this point so that I could discuss some of the points that were raised tonight. Also, no further action will be taken by the board when you return.

Mr. Greenwood moved to go into Executive Session at 9:44 p.m. The motion was seconded by Mr. Meyer with all in favor.

Ms. Kounine moved to adjourn the meeting at 9:46 p.m. The motion was seconded by Mr. Molloy with all in favor.

Respectfully submitted,

Rose Trombetta