

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 **OCTOBER 24, 2012**

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

ABSENT: ANTHONY GIANNICO

APPLICANT	TAX MAP #	PAGE	TYPE	ACTION OF THE BOARD
NYC DEP – Belden Road	43.-1-31	1	Bond Return	Public Hearing Closed. Full Return of the Bond Recommended To the Town Board.
NYC DEP – Hemlock Dam Rd	77.-2-7.-1	1	Bond Return	Public Hearing Closed. Full Return of the Bond Recommended To the Town Board.
Bavarian Corp (Ariano's)	75.44-1-70	1	Resolution	Resolution Granted.
Tompkins Recycling Facility	55.11—1-5	2	Amended Site Plan	No Board Action.
MacDonald Marine	76.20-1-13	2-3	Site Plan	No Board Action.
Dominger & Lockwood	44.10-1-1	3-6	Subdivision	Planner to Prepare Resolutoin.
Monzon, Lynne	76.6-1-30	7-8	Regrading Plan	No Board Action.
Gateway Summit – Lot 6	55.-2-24.6.1	8	Re-Approval	1 Year Extension Granted.
The Fairways – Lot 7	55.-2-24.8-1	8	Re-Approval	1 Year Extension Granted.
Putnam Community Found./ Putnam Hospital Center	66.-2-57 & 58	8	Extension	180 Day Extension Granted.
Minutes – 9/5/2012, 9/19/2012 & 10/10/2012		8		Approved.

The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Rose Trombetta

NYC DEP – BELDEN ROAD – TM – 43.-1-31 – PUBLIC HEARING

Mr. Carnazza had no comments.

Mr. Gainer read his memo which stated the original amount posted, which is currently being held by the Town, is \$120,000. Based upon our inspection, all of the site improvements required pursuant to the board's site plan approval have now been completed. On this basis, this department recommends that the entire bond be released.

Mr. Cleary had no comments.

Hearing no comments from the audience, Mr. Greenwood moved to close the public hearing. The motion was seconded by Mr. Cote 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.

NYC DEP – HEMLOCK DAM ROAD SHED & BOAT RAMP – TM – 77.-2-8 – BOND RETURN

Mr. Carnazza had no comments.

Mr. Gainer read his memo which stated the original amount posted, which is currently being held by the Town, is \$210,000. Based upon our inspection, all of the site improvements required pursuant to the board's site plan approval have now been completed. On this basis, this department recommends that the entire bond be released.

Mr. Cleary had no comments.

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.

BAVARIAN CORP. (ARIANO'S TRATTORIA) – 18 CLARK PL – TM – 75.44-1-70 – RESOLUTION

Mr. Carnazza had no comments.

Mr. Gainer stated all of our concerns have been satisfied.

Mr. Cleary stated you have a final site plan resolution in front of you.

Mr. Cote moved to accept Resolution #12-24, dated October 24, 2012, Tax Map # 75.44-1-70 entitled Bavarian Corp. (Ariano's Trattoria) Final Site Plan Approval. The motion was seconded by Mr. Meyer with all in favor.

TOMPKINS RECYCLING FACILITY, INC. – 60 OLD ROUTE 6 – AMENDED SITE PLAN

Mr. Carnazza read his memo which stated the applicant proposes to construct a recycling yard on Old Rt. 6 in Carmel. Provide Floor Plans and Elevations for all “Structures”.

All variances granted and interpretations are noted on the plat. The on-site circulation system does not work. What is the reason for the two-way aisle on the westerly side of the building when there is no two-way aisle on the southerly side? This project must be referred to the ECB for comments.

Mr. Gainer read his memo dated October 24, 2012.

Mr. Cleary read his memo which stated when this application was last before the Board in 2011, correspondence received from the NYSDEC indicated a likelihood that the Solid Waste and Freshwater Wetland permits would be denied. At that time, the Board directed the applicant to first obtain the necessary permits from the DEC, before any further action would be taken by the Planning Board. The current submittal indicates that the DEC has accepted both the Solid Waste and Freshwater Wetland Permit applications as complete, but has not yet issued the permits. The DEC has approved the Stormwater Pollution Prevention Plan (SWPPP) prepared for the project. He said the applicant is here to update us on the status of the applications with the State. There are a host of site plan issues that need to be addressed, so based on your position a year ago we shouldn't proceed with this application until the permits are granted and at that time we could have the public hearing.

Ms. Kounine agreed with Mr. Cleary. She said we should not take any action until they get their permits and revise the plans to accommodate what Mr. Gainer asked for.

Mr. Gary stated for the record we should have something in writing.

Mr. Gary shared his concern with regards to pedestrian traffic along Old Route 6.

Mr. Gainer stated the edge of the road is wide enough to accommodate the pedestrians. The right of way is sufficient there. They could probably just stripe a line and better delineate the travel lane. I will meet with the applicant's engineer to come up with some accommodation to respect what is currently being done there (Humane Society's dog walking program).

Mr. Gary asked if it could be made a no parking zone.

Mr. Gainer stated that is something we could evaluate. I will review the details of the plan with the applicant's engineer and I'm certain we could reach some agreement.

MACDONALD MARINE – 681 UNION VALLEY ROAD – TM – 76.20-1-13 – SITE PLAN

Mr. Meyer recused himself and left the podium.

Mr. Carnazza read his memo which stated provide floor plans and elevations for all “structures”. Variance granted by the ZBA for the expansion of the non-conforming use.

Mr. Gainer stated there are outside agency permits needed pursuant to this application including DEC and ECB wetland permits. The disturbance planned is less than 1 acre; the SWPPP required

encompasses only an Erosion Control Plan. All E/C components/information required by the NYS SPDES General Permit (Part III.B) should be incorporated into the Erosion Control Plan, including a sequence of construction.

Mr. Cleary stated the big issue with respect to this application was the non-conforming use on the property. The application was referred to the ZBA for an interpretation of whether the proposed project represented an increase of the existing non-conforming use. On June 12, 2012, the ZBA ruled that the proposed project does not constitute an increase of the non-conforming use, provided that:

- All boats, machinery and parts are stored inside the building
- The building shall not include heat, water, septic, or other utilities.
- The property is cleared and free of all boats, parts and machinery, except for what is stored inside the building.

Mr. Cleary stated the applicant is here tonight to give you the progress with the Zoning Board and to continue with the site plan review. They are not ready for approval yet.

Mr. Dan Donoghue, representing the applicant asked the board if it was possible to proceed with the SEQR determination, because DEP is looking for it. He stated a wetland application was filed with the DEC and it has been published in the newspaper and all of their concerns have been addressed.

Mr. Cleary stated the Boards policy is to do it the same time we grant site plan approval. There is no advantage to getting it earlier, because they will not be able to obtain a permit without site plan approval. He recommended waiting.

Mr. Meyer returned to the podium.

DOMINGER & LOCKWOOD – GLENNA DRIVE – TM – 44.10-1-1 – 3 LOT SUBDIVISION

Mr. Carnazza read his memo which stated the applicant proposes to subdivide a lot on Glenna Dr. into three lots. The Variances were granted by a Supreme Court Decision. All zoning criteria have been addressed.

Mr. Cleary read Mr. Gainer's memo which stated a driveway maintenance agreement between lots 1, 2 and 3 should be provided. Both Sewer and Water mains must be dedicated to the Town of Carmel, or separate laterals/water services must be run independently to the mains in Glenna Drive in order to comply with the Town Code. Proposed Dedication papers for these facilities should be submitted.

Mr. Cleary read his memo which stated this application involves the subdivision of a 10.58 acre, irregularly shaped and landlocked parcel of land, to create 3 new lots. When last before the Planning Board in May of 2010, the Board adopted a SEQRA Negative Declaration and forwarded the application to the Town Board for consideration of Open Development. In July the Town Board denied the open development request. The applicant then applied to the ZBA for relief for the land locked parcels. The ZBA subsequently denied the necessary variances.

The applicant then filed an Article 78 proceeding, and in April of this year, the Court ruled in favor of the applicant, and the variances were ordered granted. The public hearing on this minor subdivision was held, and closed in the winter of 2010. The applicant is returning to the Planning Board to continue the review of the subdivision. As the Board will recall, the project relies on a 15' wide common driveway to service all 3 lots, and significant grading, stormwater and site engineering improvements are necessary to accommodate the development. The lots would be served by public sewer and water connections. He said the board is at a point where you could move towards a resolution of approval on this.

Mr. Gary asked Mr. Charbonneau if the Town decided to appeal the Supreme Court decision.

Mr. Charbonneau replied, they did not and the time has lapsed.

Mr. Anthony Mole, Attorney for the applicant addressed the board and stated with regards to Mr. Gainer's memo regarding dedication papers and road maintenance and easement documents, they have been drafted and forwarded to the planning board attorney and town attorney for review. He said this application has been through a major process. We have had three public hearings, one with the planning board, Town Board and Zoning Board. We are now back here after the litigation.

Mr. Robert Cameron of Putnam Engineering, representing the applicant stated this is a three lot subdivision on a large parcel of land off Glenna Drive. There was a nominal access area which was why we had to go to the Zoning Board and Town Board for open development. These lots have a common driveway. All the lots conform to the area criteria for zoning. We got the variances for the lot frontage and basically all these lots now conform with the variances that were granted. The town code criteria is 15%. We are actually slightly less than that. The concern previously, was we needed to have turn offs and areas of passing and we have provided all that. We provided a parking area at the bottom. We provided turning areas; we widened the driveway as requested to 18 feet. He said there were concerns regarding the mountaintop. We put in conservation areas on the plat. Trees will not be cut along the perimeter of the property. There will be nominal disturbance in building the homes. The stormwater is properly addressed. He said there was concern from adjacent residents that there was going to be an issue with stormwater. We have to conform to stormwater design. A series of ponds and in ground detention areas will be placed on the site to minimize that. He said the board has given us preliminary approval contingent upon getting open development because we didn't have the necessary frontage. We have addressed all the engineering and planning comments and we are at the point for an approval resolution.

Mr. Gary said this went through the whole process, with a public hearing and now this board gives them their final resolution. Mr. Gary asked Mr. Charbonneau if another public hearing needs to be held.

Mr. Charbonneau stated it's not necessary.

Ms. Kounine stated we could have one after two years.

Mr. Charbonneau said yes you could, but it is not legally required.

Mr. Gary asked if the plan has changed since the public hearing.

Mr. Cleary stated the physical layout hasn't changed, but when they were last in front of the board this was an open development plan.

Mr. Mole stated the road frontage has changed in order to go to the ZBA to obtain the least amount of variances necessary. The engineering has not changed, nor has the common driveway. He said with respect to having another public hearing, the same people have made the same comments time and time again. There is no legal requirement for having another public hearing and want to make known my objection to holding another public hearing. It would not serve any legal purpose in terms of the approval of the application. The engineering has not changed and all the concerns have been addressed.

Ms. Kounine asked if there will be any infringement on Hill and Dale.

Mr. Mole said no, there will be zero infringement.

Mr. Molloy asked if the present planning board members were on the board at the time of the public hearing.

Mr. Cleary stated it was in 2010, not everyone was on the board at that time.

Mr. Gary stated the only reason to have a public hearing is if something has changed that would impact the neighborhood. The only thing that has changed is the frontage since the public hearing. Other than that would warrant a public hearing except a couple of board members are not familiar with the application.

Mr. Charbonneau stated other than that change, there is nothing else in the record that would warrant it, but the board could chose to have a public hearing on that change if they felt it was significant enough.

Mr. Greenwood commented when the open development was denied by the Town Board, the applicant should have possibly come back to the planning board prior to going to the ZBA.

Mr. Mole stated the lot lines were changed to make the lots more conforming.

Mr. Greenwood said I understand why you did it. My question is you changed what was in front of us which was open development and then went to the ZBA (not that you didn't have a right to) but you never came back in front of this board with a new plan showing the lot line changes. We were skipped in this process.

Mr. Mole stated I disagree with you with regards to skipping the process. We followed the legal process. We are permitted to go to the zoning board and change the frontage to comply.

Ms. Kounine stated originally this was an open development. Now it is a minor subdivision and because it's different than the open development it almost should be treated as a new application.

Mr. Mole stated open development was denied by the Town Board.

Mr. Molloy stated once you seek the variance and obtain the variance then you have to come for planning board approval, so the application that was before the planning board originally

was denied by the Town Board for open development. He said now you have to start from scratch.

Mr. Mole stated the fact that the Town Board denied open development does not stop or terminate the application. The applicant has another administrative remedy to exhaust before making an Article 78 application to the court. That's what the applicant did. The procedure he had to follow as a matter of law and a most efficient way that the applicant could follow have spent many years and a lot of resources and time on this application.

Mr. Charbonneau clarified that the board and the applicant were both right. The applicant has lawfully followed the procedure. There was an amendment to reduce the conform of the non-conforming before the zoning board. He said you are seeing that for the first time.

Mr. Gary stated the issue at hand is, has anything legally changed to have a public hearing, that we should morally be obligated to have a public hearing. Has the public heard those changes?

Mr. Charbonneau said not here, but probably at the ZBA.

Mr. Mole said yes. There was a public hearing at the zoning board with respect to the plan that is before you. There was an extensive public hearing lasting about 1½ hours.

Mr. Molloy stated following that public hearing the zoning board denied the application.

Mr. Mole said that's correct and it was overturned by the court.

Mr. Molloy said I am leaning in favor of asking for another public hearing. What would it hurt? He said three of the board members weren't here for the last public hearing.

At which time, a discussion ensued regarding whether or not to have another public hearing on this application.

Mr. Gary stated I don't think it's necessary to have another public hearing.

Mr. Greenwood also added the engineering hasn't changed, we have heard all the concerns before, there is nothing to address as far as roadway, drainage, etc. The only thing that has changed is the lot lines. It has gone through a legal process that limits where those lines are.

Mr. Meyer stated he didn't think a public hearing was necessary and agreed with the Chairman.

Mr. Meyer moved to deny a public hearing. The motion was seconded by Mr. Cote. A roll call vote was taken as follows:

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

Mr. Gary asked the Planner to prepare a resolution.

MONZON, LYNNE – 21 M & M LANE – TM – 76.6-1-30 – REGRADING PLAN

Mr. Meyer recused himself and left the podium.

Mr. Carnazza read his memo which stated the applicant has a large quantity of fill placed on the property and is required to remove the C&D from the site. Once the C&D is removed, clean fill will be placed on the site to return to original grades. This project must be referred to the ECB for comments.

Mr. Gainer read his memo which stated we recommend that the wetland boundary flagging should be identified farther in the southeasterly direction, off the easterly lot boundary, in order to verify that the extent of work within the wetlands buffer is accurately represented. A Town of Carmel Freshwater Wetland permit is required, and so referral to the ECB should be accomplished as part of the Board's review of this application. A SWPPP, comprising an Erosion Control Plan, is required. Therefore, the plans should incorporate all information and details specified by Part III(B) of the General Permit. The applicant's engineer should provide a construction cost estimate for the work proposed, so that bonding and inspection fees can be established. The following notation should be added to the Site Plan, and incorporated into any approval resolution - Prior to the initiation of construction the applicant or his representative will meet with the design engineer, Town Engineer, Highway Superintendent, Building Inspector, Site Contractor, and/or any additional outside agencies that may have jurisdiction over aspects of the project for a Pre-Construction Conference to review all facets of construction and required inspections.

Mr. Cleary read his memo which stated the fill plan indicates a significantly larger area than the excavation plan. Does the project result in a balance of cut and fill? It appears that the amount of fill will exceed the proposed cut. Where will the C&D be removed to? Is it the intention to excavate the site, and remove the C&D as rapidly as possible, or will the excavation occur over a prolonged period of time? The extent of tree removal should be indicated on the plan. The limits of disturbance should be survey located in the field.

Mr. Paul Lynch of Putnam Engineering, representing the applicant stated he will meet with the consultants to clarify everything.

Mr. Gary asked if it was just a site cleanup.

Mr. Lynch answered yes, that's correct. He said there is asphalt, concrete and other C&D debris that was brought in over the years and buried on the property and needs to be removed. We did deep testing and documented what was found to what depths to be able to come up with an excavation plan and ultimately a regrading plan. He said it is about 3750 cubic yards of debris.

Mr. Gary asked where will the all the debris go.

Mr. Lynch stated the material will be removed to a landfill and it will be documented.

Mr. Kounine requested a copy of the report stating the new fill being put in is clean and hazardous free.

Mr. Lynch stated we could do that.

Mr. Greenwood asked if any other agency has jurisdiction over the sight.

Mr. Carnazza stated we called DEC and they said blacktop is not a problem.

Mr. Meyer returned to the podium.

GATEWAY SUMMIT SENIOR HOUSING – LOT 6 – TM – 55.-2-24.6-1,6-2 – RE-APPROVAL OF AMENDED SITE PLAN

The consultants had no objection to re-approval of site plan.

Mr. Jeff Contelmo of Insite Engineering, representing the applicant stated this is their first re-grant of approval. He said the reason is basically market conditions.

Mr. Greenwood move to grant re-grant of site plan for 1 year from January 25, 2012. The motion was seconded by Ms. Kounine with all in favor.

THE FAIRWAYS SENIOR HOUSING – LOT 7 – TM – 55.-2-24.8-1,8-2 – RE-APPROVAL OF AMENDED SITE PLAN

The consultants had no objection to re-approval of site plan.

Ms. Kounine moved to grant re-approval of site plan. The motion was seconded by Mr. Cote with all in favor.

PUTNAM COMMUNITY FOUNDATION/PUTNAM HOSPITAL CENTER – STONELEIGH AVE – TM – 66.-2-57 & 58 – EXTENSION OF SUBDIVISION APPROVAL

The consultants had no objection to the extension.

Mr. Charbonneau stated for the record this is an extension for the amended resolution not the initial resolution.

Mr. Dan Leary, Attorney for the applicant stated this is a subject of an Article 78 proceeding on that issue. We are looking to reinstate the May resolution.

Mr. Charbonneau stated as far as this board is concerned the only resolution that is lawful right now is the June resolution and the extension will be based on that.

Ms. Kounine moved to grant a 180 day extension of approval. The motion was seconded by Mr. Cote with all in favor.

MINUTES – 9/5/2012, 9/19/2012 & 10/10/2012

Mr. Molloy moved to adopt the September 5th and September 19, 2012 minutes. The motion was seconded by Mr. Greenwood with all in favor.

Mr. Greenwood moved to adopt the October 10, 2012 minutes. The motion was seconded by Mr. Cote with all in favor except Mr. Molloy who abstained.

Mr. Greenwood moved to adjourn the meeting at 8:10 p.m. The motion was seconded by Ms. Kounine with all in favor.

Respectfully submitted,

Rose Trombetta