



PLANNING BOARD
Town of Carmel - Town Hall
Mahopac, NY 10541
(845) 628-1500

PLANNING BOARD MINUTES

JULY 13, 2011

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

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
Pulte Homes – Lot 4	55.14-1-11.2	1—3	P.H.	Public Hearing Closed.
Lupi Car Wash	75.19-1-10	3	P.H.	Public Hearing Closed and Resolution Accepted.
Crawford, Susan	75.43-1-19	3	Bond Return	Public Hearing Closed and Full Bond Return Recommended To Town Board.
BP Gas Station	44.18-1-21	4	Site Plan	Resolution Accepted.
Mahra, Sanjay	75.16-1-27	3-4	Site Plan	No Board Action.
Yankee Land Development	76.15-1-12	5	Subdivision	No Board Action.
Sullivan, Neal	42.-1-22	5-6	Regrading	No Board Action.
Quis, Michael	55.6-1-42	6-8	Extension	Extension of Approval Denied.
Sam's Floor Covering	75.19-1-12	8	Extension	One Year Extension of Approval Granted.
Executive Session		8		Pulte Homes Litigation.

The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Rose Trombetta

PULTE HOMES – LOT 4 – TERRACE DR. – TM – 55.14-1-11.2 – PUBLIC HEARING

The consultants had no comments.

Mr. Gainer read Mr. Klotzle's (Wetland Inspector) memo which stated the wetland flagging is shown correctly on this new recreation area site plan. I find these plans to be excellent and suggest that the Wetland Inspector be required on site in the early stages of construction. All plantings should be guaranteed for at least two full growing seasons.

Mr. Paul Lynch of Putnam Engineering, representing the applicant stated when we last appeared in front of the board on May 11th we presented the exercise and fitness trail as a substitution of the originally approved pitch and putt. The idea for the trail came from the homeowners. Based on their input the applicant agreed to make the changes. One of the things that were discussed at the last meeting was the landscaping. We have received the June 20th letter from the ADHOC Landscaping Committee. There were nine comments that we addressed:

- An additional observation well (9" deep tubing) was added.
- Pavement has been extended to the front of all benches.
- One red cedar tree has been added to make it eight screening trees.
- Number of plants to be installed in the shrub masses has been added to the plan.
- Rhododendron has been labeled as a PJM Rhododendron.
- Sand Cherry plantings have been replaced.
- Removed four of the 4 ft. benches and replaced them with four 6 ft. benches.
- The color of the gazebo roof has been specified to be rustic green.
- Added notation regarding top soil to the plan.
- The seed mix is a nature mix which is a wetland seeding mix.

Mr. Lynch went on to say the amenity size on lot 4 is required to have 33,000 square feet. With the fitness trail it will be 41,000 square feet. The applicant has informed the homeowners they will move forward with an amended landscaping plan as a separate application. It will not be tied to this particular application that's presently in front of the board. He stated he would like the board to make a decision tonight to close the public hearing. If we can't move forward with this, the applicant will have to go back to the approved pitch and putt.

Mr. Spencer Tassler a resident of 17 Langdon Grove, the Retreat at Carmel, expressed his concerns regarding the draft amended landscaping plan that was presented to the homeowners. He said it was disgusting. He ask that the board keep the public hearing open and not close it tonight. We are very worried about the quality of the fitness trail. There are other issues besides landscaping, such as stormwater, drainage pond problems, the tree preserve, etc., that needs to be addressed. We are asking for your help.

Mr. Neil Carnow a resident of Retreat at Carmel stated he is involved in the review for this amenity application. The most important issue has not been addressed which is the size of the amenity. We requested the applicant provide a singular drawing outlining all of the amenity spaces with an identifiable method of calculating the area. To date, it has not been addressed by the applicant. Security issues have not been addressed to date.

Mr. Gary asked Mr. Lynch if he was taking note of everything that was wrong. He said I want you to address that.

Mr. Jim Mullen stated he is not talking about the fitness trail. Mr. Carnow is talking about something else.

Mr. Gary stated when you have a public hearing on a piece of property, the whole site becomes a part of that public hearing.

Mr. Charbonneau agreed with Mr. Gary. Anytime you are dealing with an amendment to a site plan, it is within the purview of the board to address any other concerns on the site.

Mr. Carnow continued to say we responded to Mr. Mullen that his proposal was inadequate and we couldn't support it at the next planning board meeting. We provided him with a reasonable outline of how we thought in concept the plantings could be dealt with in our community. We were told that the two issues would be separate from each other and the landscaping issue would be dealt with in 60 days. We have no reasonable history with this applicant. He said if this board chooses to segregate these two approvals, you will allow this applicant to have their discretion as to what they will do to continue in our community. And I very fearful that we will never get back what we have lost. We are currently missing a huge amount of trees on our site. How do we get those back?

Mrs. Margo Turano a resident of 24 Langdon Grove showed the board pictures of the site that originally submitted with the environmental impact statement many years ago and went on to read two quotes from the EIS approved by the planning board. She then showed a present picture of the site to the board. She said I respectfully request that you help us.

Mr. Steven Bernstein a resident of 61 Blair Heights also had comments regarding the lack of landscaping. He said trees are uprooted; there are lacks of plantings on the hillside. The hillsides should be planted with proper vegetation, not only to enhance the overall look of the property but to prevent erosion and keep the wetlands safe. There is a big concern about the storm ponds and their proper operation. It is filled with sediment and runoff and all kinds of debris. He said all we want is fairness.

Mr. Adrian Dessey a resident of 34 Langdon Grove stated the major issue with Pulte Homes is them not doing what they say they will do. He said what happened to the tree preservation? What happened to the hillside? Where is the planned treatment of those hillsides? We have asked numerous times to meet with Pulte and the response is go through the HOA. One diminished project is the practice holes by the clubhouse. It is a useless and worthless amenity.

Mr. Gary said we need to go into executive session to clear up some legal issues.

Ms. Kounine moved to go into Executive Session. The motion was seconded by Mr. Greenwood with all in favor.

Ms. Kounine moved to come out of Executive Session. The motion was seconded by Mr. Greenwood with all in favor.

Mr. Gary addressed the audience and stated the board has decided to close the public hearing for the fitness trail tonight. I am directing the consultants to visit the site and monitor if all aspects of the original site plan have been done and meets standards. And at that time we will determine the next step.

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

LUPI CAR WASH – 373 ROUTE 6 – TM – 75.19-1-10 – PUBLIC HEARING & RESOLUTION

Mr. Carnazza had no comments.

Mr. Gainer read his memo which stated while the applicant has added the directional bollards at the car wash exit, to direct vehicles to the south so as to prevent access to the second exit driveway now proposed, we believe that one additional bollard along the radius shown should be added to assure that no vehicles attempt to access this driveway. By letter dated July 11, 2011, NYSDOT has now granted written authorization for the amended site access proposed on the latest plans. We believe that the Planning Board had previously waived the requirement for a public hearing on the Site Plan amendment, and so we have no objection to the Board's action on this application, provided that comment No. 1 above is addressed.

Mr. Gainer stated there is a draft resolution in front of you.

Mr. Jeffrey Contelmo of Insite Engineering, representing the applicant stated the additional bollard has been added to the plan but not at the site. It will be done.

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 accept Resolution #11-24, dated July 13, 2011, Tax Map #75.19-1-10 entitled Lupi Car Wash Amended Final Site Plan Approval. The motion was seconded by Ms. Kounine with all in favor.

CRAWFORD, SUSAN – 809 S. LAKE BLVD – TM – 75.43-1-19 – PUBLIC HEARING

Mr. Carnazza had no comments.

Mr. Gainer stated he recommends full return of the bond.

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. Molloy with all in favor.

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

BP GAS STATION – 2 FAIR ST. – TM – 44.18-1-21 – RESOLUTION

Mr. Carnazza had no comments.

Mr. Gainer said he had no comments but there was a draft resolution from Mr. Cleary in front of them.

Mr. Greenwood moved to accept Resolution #11-23, dated July 13, 2011, Tax Map #44.18-1-21 entitled BP Gas Station Final Site Plan Approval. The motion was seconded by Ms. Kounine with all in favor.

MAHRA, SANJAY – 10 VESCHI LANE S. – TM – 75.16-1-27 – SITE PLAN

Mr. Carnazza read his memo which stated several variances are required from the ZBA. (Lot area, Depth, Side Yd for existing Garage, 2-way aisle width, and frontage). Denial to the ZBA is required. 10 parking spaces are provided. The zoning table provides for 9 spaces.

Mr. Gainer read his memo which stated it is requested that a copy of the property survey prepared by Robert Baxter, PLS be provided or the Town's files. The site is presently serviced by a narrow access lane from Battista Lane, which will provide access to (4) parking spaces on the lower side of the parcel. A copy of the right-of-way which exists to permit this access should be provided to the Planning Board, for their review and files. At the end of Veschi Lane South, an easement is proposed in favor of the Town of Carmel for snow plowing purposes, as the Highway Superintendent has sought. However, as significant run-off enters the site from upland areas (including NYS Route 6), the proposal to eliminate the present swale and instead pipe this discharge through the site could create adverse impacts to adjacent properties. Therefore, the applicant should consider re-configuration of the upper on-site parking area to avoid any disturbance to the drainage swale that now exists, which the Highway Superintendent believes works satisfactorily. If necessary, the Highway Superintendent is willing to meet with the applicant on site to resolve this concern. Some new landscaping is proposed along the property lines, to shield adjacent residential properties. It is recommended that additional landscaping be added, wherever existing landscaping is lacking, to enhance the screening intended by the applicant. The areas where this would be required could better be clarified if the plans were modified to incorporate all existing vegetation that is present on the site. Because of the proximity of the additional paving proposed adjacent to Veschi Lane South to the wetlands shown on the plan, referral to the ECB will be required if this wetlands area exceeds 5,000 sf. Construction details should be provided for the following: Any new paving to be provided; further, to avoid creation of addition impervious areas, it is suggested that pervious surfaces (grass pavers or the like) be considered for the minor areas necessary to assure proper vehicular access aisles are achieved. At this time we have no objection to the Board referring the matter to the ZBA and ECB. Once necessary variances are obtained, the Board may formally process the application. Upon the applicant's return to the Planning Board, the plans to be submitted should address the above matters.

Mr. Willie Besharat of Rayex Design, representing the applicant stated at this time I would prefer if we do not get denied to the ZBA yet. There are issues with the parking and drainage which we have discussed with the Town Engineer and the Highway

Superintendent. I would like to answer all the comments and revise the drawings before we go to the zoning board.

YANKEE LAND DEVELOPMENT – BAYBERRY HILL – TM – 76.15-1-12 – 14 LOT SUBDIVISION.

Mr. Carnazza stated the applicant is here because they are looking for a semi or partial waiver of the tree plan.

Mr. Gainer stated he had no comments.

Mr. Gainer read Mr. Cleary's memo which stated the applicant is seeking a referral to the ECB. It is recommended that the planning board seek the ECB's advice on the suitability of waiving the tree plan.

Mr. Ed Delaney of Bibbo Associates, representing the applicant stated we are proposing a 14 lot subdivision on 110 acres of land of which the road will take up about 3 acres.. Basically, the entire development part of this site is of the same similar trees in size and age. We are asking for a waiver of tree plan.

Mr. Gary said it is up to board to agree or disagree on the waiver.

Mr. Greenwood stated in the past with other applicants we have amended the tree plan to include only the areas of disturbance and not the entire site. In this case over 100 acres.

Ms. Kounine stated you could either do a tree plan for over 100 acres or modify to the disturbed areas only. Those are your options.

Mr. Delaney stated we will develop a tree plan of the disturbed area only.

SULLIVAN, NEAL – 610 BARRETT HILL RD – TM – 42.-1-22 – AMENDED REGRADING

Mr. Meyer recused himself and left the podium.

Mr. Carnazza had no objections.

Mr. Gainer read his memo which stated at this point, only the following issues remain to be resolved: As noted previously, brick and other construction and demolition material is present in the materials deposited on site to date. The Health Department or NYSDEC should be consulted regarding the quality of the fill to confirm its acceptable. Since the area of disturbance exceeds 5,000 square feet a SWPPP must be developed for the overall extent of site re-grading being performed. A revised bond amount, and associated inspection fee, must be set for the expanded project scope. Currently a bond in the amount of \$5,000 is being held by the Town. Based upon guidance from the applicant's representative as to the additional work proposed, it is recommended that this bond be increased to \$20,000 (or an additional \$15,000). Further the required inspection fee for this additional work is \$750 (making the total fee to be paid for the complete project \$1,000, of which \$250 has previously been received by the Town). The Board should determine whether a new Public Hearing will be required on the amended application.

There was some confusion as to which report was submitted to the Town Engineer regarding the testing of the fill. It was determined that it was the original fill from April of 2011 that was tested. There was no report or testing of what is on the site now.

Mr. Gary informed Mr. Besharat to test the fill now and report back to the Town Engineer with the findings and then come back to the board. He said the public hearing and resolution will be done at the same time.

QUIS, MICHAEL – ROUTE 6 – TM – 55.6-1-42 – EXTENSION OF APPROVAL

The consultants had no comments.

Mr. William Shilling, ESQ., representing the applicant stated they received an extension through June 28, 2011. During that time we received approvals from the ZBA and Department of Transportation. At this time, we are now fully complete with all of the agencies. Any further appearances to the planning board would be issues with peripheral development involving financing. We encountered that problem when we were seeking our bond. There are three individual items which stand between us and the filing of the map. The first being is the inspection fee. According to the resolution it says **(the applicant shall pay an inspection fee prior to the commencement of any construction or the signing of the site plan, whichever is first requested by the applicant)**. My reading of that is we can request to pay the inspection fees at the commencement of the construction. With regard to the recreation fees, I ask this board to consider Town Law 274A which specifically states that generalized statement of recreation fees are not acceptable. Number 6 of the resolution says **(shall pay all other applicable fees, including applicable fees in lieu of recreation without any findings of fact)**. In my opinion, the first two are not something we are holding the board to. We are in compliance with the resolution. The third one is the bond. I contacted three different insurance companies who have connections with sureties. Each one has said there is a potential for interruption given the sidewalk project of the DOT. They said it would likely be denied because of that. We are asking that the bond requirement be held in abeyance until either the sidewalk project is complete or until the money is deemed to be no longer existing for the project. We are asking for a short period of time to get the bond. That is the only request I have of this board on behalf of the applicant. You also have the responsibility to see whether or not substance of the project has changed since it was initially approved. It is a superb space for a senior site. We are at the end and we ask this board to find that the engineering fee of \$32,000 can be paid prior to the commencement of the work. We ask for what is legally entitled Town Law hearing 274A as it relates to recreation. And finally, we ask for a short period of time to obtain the bond given this interruption which is causing to be an obstacle to our procurement of the bond. There are four things I would like the board to think about when considering our request for an extension. All permits have been secured. The purpose of the project has not changed or diminished by virtue of the number of years that have passed. There is no health, safety or welfare reason to terminate this project as a result of a lapse of time. And the catastrophic loss that my client would incur if we didn't get a short extension to secure a bond.

Mr. Gary addressed Mr. Shilling and stated I have been a big supporter of this project, but you have said things that puts me on the other side of this project. I have no desire to see it exist anymore in the Town of Carmel. This project has been given every opportunity to advance. In my opinion, looking at it now, some things should have been looked at a

little more closely before we approved it. The project is in a good spot but it is not big enough to be there.

Mr. Meyer addressed Mr. Shilling and said in your letter to Mr. Charbonneau, you are asking the board to reconsider the recreation fees.

Mr. Shilling stated the law provides, prior to the imposition of recreation fees, it's necessary to hold a hearing to see if the applicant is providing recreation opportunities.

Mr. Greenwood stated if you are hearing for an extension of approval, then why are we discussing recreation fees.

Mr. Shilling replied because it is in the resolution. One of the resolution components says we have to pay recreation fees in the amount \$75,000. And I suggest to you that the board is required to give us a hearing to see whether or not it's appropriate.

Mr. Charbonneau said, what you are saying is when the board originally discussed this matter, they did not engage in that analysis sufficiently to comply with the law?

Mr. Shilling answered yes. My review of the minutes indicates that it was simply a generalized statement that you will pay recreation fees in lieu of recreation opportunity.

Mr. Charbonneau stated this is the first time you are raising this issue, despite several extensions and regrants.

Mr. Shilling stated that's correct. It wasn't pertinent at that time to the request of the regrants. I think it is now.

Mr. Greenwood said we have never given you a regrant. We have done extensions. It has been extended four different times.

Discussion ensued regarding regrants and extensions. Are regrants in the code? It is in the fee schedule but not in the code.

Mr. Carnazza said you get one extension. After that it is a re-approval.

Mr. Greenwood stated you have gotten four extensions, no other applicant has ever gotten that.

Mr. Gary said I wish there was a way this board could re-visit this application. Since its approval this would not exist with the present town law.

Mr. Carnazza said that's correct. You would need variances from the current town law.

Ms. Kounine said we have been extremely fair with applicant.

Ms. Kounine moved to grant an extension of approval. The motion was seconded by Mr. Molloy.

Ms. Kounine moved to withdraw initial motion (to grant). Mr. Molloy also withdrew his motion.

Ms. Kounine moved to deny extension of approval. The motion was seconded by Mr. Greenwood.

A roll call vote was taken on the motion as follows:

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

Extension denied.

SAM'S FLOOR COVERING – 361 ROUTE 6 – TM – 75.19-1-12 – EXTENSION OF APPROVAL

The consultants had no comments.

Mr. Greenwood moved to grant a one year extension of approval. The motion was seconded by Mr. Meyer with all in favor.

EXECUTIVE SESSION

Mr. Charbonneau stated he requested that the board go into executive session to discuss a matter of litigation of Pulte Homes versus Town of Carmel Planning Board.

Ms. Kounine moved to go into Executive Session. The motion was seconded by Mr. Greenwood with all in favor.

Ms. Kounine moved to come out of Executive Session. The motion was seconded by Mr. Cotè with all in favor.

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

The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Rose Trombetta

