

APPROVED

HAROLD GARY
Chairman

CRAIG PAEPRER
Vice-Chair

BOARD MEMBERS
ANTHONY GIANNICO
DAVE FURFARO
CARL STONE
KIM KUGLER
RAYMOND COTE

TOWN OF CARMEL PLANNING BOARD



60 McAlpin Avenue
Mahopac, New York 10541
Tel. (845) 628-1500 – Ext.190
www.ci.carmelny.ny.us

MICHAEL CARNAZZA
*Director of Code
Enforcement*

RICHARD FRANZETTI, P.E.
Town Engineer

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

VINCENT FRANZE
Architectural Consultant

PLANNING BOARD MINUTES

MARCH 8, 2017

PRESENT: CHAIRMAN, HAROLD GARY, VICE-CHAIR, CRAIG PAEPRER, ANTHONY GIANNICO,
CARL STONE, KIM KUGLER, RAYMOND COTE

ABSENT: DAVE FURFARO

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
Putnam County Savings Bank	86.11-1-1	1-2	A. Site Plan	Public Hearing Scheduled.
Baldwin Subdivision	86.11-1-1	2-9	Sketch Plan	Sketch Plan Granted & Public Hearing Scheduled.
MK Realty	55.6-1-44&45	10	Re-Approval	Final Site Plan Re-Approval Granted.
Wixon Pond Estates	53.20-1-19	11	Extension	Preliminary Extension Granted for 6 Months.
Stoneleigh Woods at Carmel	55.15-1-36	11-12	Bond Return	Public Hearing Scheduled.
Minutes – 01/25/17 & 02/08/17		12		Approved.

The meeting was adjourned at 7:56 p.m.

Respectfully submitted,

Rose Trombetta

PUTNAM COUNTY SAVINGS BANK – 150 ROUTE 6 – TM – 86.11-1-1 – AMENDED SITE PLAN

Mr. Carnazza read his memo which stated the applicant proposes an amendment to the lot only on Lot 1 of the proposed Baldwin Subdivision. The bank is exactly the same as it was on the last submission. All zoning criteria have been addressed, however, they can't go forward until the subdivision is approved.

Mr. Franzetti read his memo which stated this application encompasses a proposal to add a retail bank establishment on a 3 acre site located at 150 Route 6. This site had previously received approval from the Town of Carmel Planning Board (Resolutions 16-01 and 16-02 dated January 27, 2016). All Engineering Department comments have been previously addressed as this site is already under construction. The only change to this submittal is the area of the site changed from the approved 9.77 acres from the January approval to 3 acres.

Mr. Cleary stated it is the same exact plan, with the exception it appears as though there is an easement that got elongated along Route 6 which is slightly different of the location of the easement on the originally approved subdivision.

Mr. Contelmo said that has to do with the well location. He said before that easement came to the end of a lot line and now the well is actually on the property.

Mr. Cleary asked has the well location changed.

Mr. Contelmo replied no the well location has not changed. He said what that easement actually does is it allows access at grade with Route 6 where you could drive in and get easily to the septic system, so the septic easement was extended for future maintenance purposes.

Mr. Giannico asked if the shared easement could be used as access to the back lot.

Mr. Contelmo replied no. At which time, Mr. Contelmo pointed to map to show the location of the easement to the Bank and Route 6 Retail septic system.

Mr. Cleary stated with regards to the question about access to the back, the same entity owns all three parcels, so he could give himself a hundred easements to the back today without us knowing anything about it.

Mr. Stone asked if the easement was specific for access for maintenance only.

Mr. Contelmo replied the easement is specific to several things. Number 1 is the placement of septic, number 2 access to the septic for maintenance and number 3 is the pipe to get to the septic and Route 6 Retail.

Mr. Stone said so it can't become anything else.

Mr. Cleary said that's correct, easements are very specific.

Mr. Contelmo said there are three easements, septic and sewer maintenance, stormwater easement and the main access easements which include the driveway. He said this is what you approved before (points to map). He said all the easements and site improvements are the same.

Chairman Gary said to schedule a public hearing.

BALDWIN SUBDIVISION- 150 ROUTE 6 - TM - 86.11-1-1 - SKETCH PLAN

Mr. Frank DelCampo, a resident of Mahopac asked the Chairman if he could speak for a few minutes.

Chairman Gary said for the record this is not a public hearing, but I'll let you speak for a minute.

Mr. DelCampo addressed the board and stated over 125 people came to my information meeting at the library this past Monday. He said we are opposed to the Town Board for changing the zone to residential in that commercial area. Also, I want you to know that the applicant still hasn't paid his taxes. He said I'm surprised this board is not asking him what he is intending to do with back lot, because as you could on the sketch design it looks like a horseshoe and he has plenty opportunity to put that road straight to the back and put his 150 to 200 townhouses. He said you cannot have a final decision because he hasn't paid his taxes. He said the community wants this to stay commercial/business park and to please protect our community.

Chairman Gary said we cannot give any response to that.

Mr. Carnazza read his memo and stated the applicant chose to re-subdivide the existing 2 lots into two complying lots. Provide lot width, and lot depth lines (I drew them on the plat submitted, the lots do conform). The approval for this subdivision, if granted, must be filed with the County Clerk prior to the granting of the amended site plans on the two lots (PCSB and Rt. 6 Retail).

Mr. Franzetti read his memo which stated this application encompasses a proposal to subdivide a 12.93 acre parcel into two (2) parcels of 3 acre and 9.8 acre sites located at 150 Route 6. This Department has no objection to Sketch Plan approval. Based upon our review of this submittal, the Engineering Department offers comments with regards to referrals that are needed to DEC, DOT, DEP, PCDOH, ECB and Fire Department.

Mr. Cleary stated the original subdivision created lots of these two sizes, however, originally the bank parcel was the larger parcel and the Route 6 Retail was the smaller one. In

January the applicant came back and proposed a modification to those two lots that involve the adjacent lot that Mr. DelCampo spoke about earlier. The applicant has since abandoned that proposal and is now restricting their subdivision to the 13 acre parcel that we saw originally. He is swapping the sizes of the two parcels. The bank parcel will be reduced in size and the Route 6 Retail parcel is enlarged in size. This time it doesn't affect the adjacent 172 acre Union Place parcel as you know it. He said if you look at the plan the Route 6 Retail parcel includes the bigger portion of the rear that loops around the back. He said virtually all that property is NYS regulated wetland or there is a large pond on that property. It's constrained and basically undevelopable. He said one of the things we should consider is a conservation easement on the property or restriction that would legally prevent any development for ever occurring on the back portion of the property. He said there is an easement for access that provides the driveway into the bank. He said if you remember from the other plans there was some discussion on an easement connection to the adjacent Koehler Center. He said that's not shown on the plan now. We need to find out what happened with that. The maintenance of the pond will now be the obligation of Route 6 Retail. That needs to be clearly identified. He said there were conversations about the County trailway, is that still be considered? If so, we need to know more about that.

Chairman Gary asked Mr. Contelmo why is the bikeway eliminated, it was there before.

Mr. Jeff Contelmo of Insite Engineering, representing the applicant addressed the board and stated we had originally come in for a two lot subdivision on the 13 acres with two conforming lots, one was 10 acres and the other was 3 acres. He said at the same time we got the bank approved on the 13 acre parcel and construction started on that. As we proceeded to do studies of what might happen on the other lot, we became aware of the fact that the plans were still being discussed and money had actually been allocated to the County for an extension of the bikeway that had been planned for over 15 years. He said there is an old railroad bed that extends through this property and the property to the north which is intended to be an extension of the bikeway. He said what we thought was prudent from a planning standpoint was to re-configure the 13 acres in a way where the bank would sit on a two acre lot which needed a variance and we would have a similar sub-standard 1 acre lot for the Route 6 Retail and then the other property including the pond, wetlands and future bikeway could be preserved for open space and potential for the bikeway and as well as the connection into the Koehler Center driveway. He said as the board is aware, we were successful in the necessary variances for the two sub-standard lots and came back before this board in late January and got sketch plan approval. Subsequent to that meeting there was a law suit filed on the zoning decision, so the applicant decided he did not want to engage in fighting that, so he came back with a revised conforming 2 lot subdivision which this is. He said with this particular layout, because we have to make the bank lot 3 acres to conform, that's engulfed in the area where the bike path was originally planned. I'm not saying that eliminates the bike path from ever happening, but certainly it creates an impediment that we were trying to preserve. The short answer is it would go between the pond and the bank where we had originally tried to preserve some property, but for right now that might not happen because we decided to go ahead and conform to move this forward with a 3 acre lot for the bank.

Chairman Gary said the critical part of that is there are only couple places where that bikeway could connect from Westchester.

Mr. Contelmo replied that's right. At which time, Mr. Contelmo points to the map to show where the bikeway would connect coming from Westchester.

Vice-Chairman Paepre said I understand what you said about the lot adjustments, but I don't understand why the bike path can't still go in, other than he just doesn't want to do it.

Mr. Contelmo said the last time we were trying to preserve the bike path with the current owner who has had discussions to work with the County. With this particular arrangement, the bank would end up with property that could potentially site a bike path. I never said the bike path can't happen because of the change of lot line. He said the lot line arrangement was trying to be proactive in a planning way to preserve land.

Vice-Chairman Paepre said I just think it's easier and probably less costly if you were to do it now rather than later.

Mr. Contelmo said to build it?

Vice-Chairman Paepre said to leave an easement, to plan for it.

Mr. Stone asked if lot 1 is changing ownership. Will the bank actually own that lot?

Mr. Carnazza replied that's correct.

Mr. Cote said I also think you need to do that now, you need to get some of easement set up to ensure that at some point the bike path can go in.

Mr. Contelmo said first of all we are not planning the bike path, secondly whether the bike path becomes or reality or not it's not in our control and if the County or the State wants to extend the bikeway there is compensation for easements and/or land taking that take place. He said that process takes literally years with the State.

Mr. Charbonneau asked is Putnam County Savings Bank a contract vendee of that lot or are they a lessee of that lot?

Mr. Contelmo said to my knowledge they are a lessee.

Mr. Stone said so the bank is not going to own the lot, correct?

Mr. Contelmo said the ownership of the bank remains in question. He said right now the bank is on a lease parcel, once it's completed the business arrangements could transfer the ownership of the underlying fee with that lease on top of it.

Mr. Giannico asked the previous subdivision that we approved did it have the bike path on it?

Mr. Contelmo replied no.

Mr. Giannico asked why are we considering going forward when the original subdivision was not filed.

Mr. Carnazza replied you have to.

Mr. Giannico asked why do we have to.

Mr. Carnazza said the old one was never filed or completed, so right now they have a single bank on a single lot.

Mr. Giannico said if it was not filed after we approved it.....

Mr. Carnazza said then it's null and void.

Mr. Cleary said the subdivision was approved by this board and extension was granted by your board in December. He could file that subdivision tomorrow if he wanted to after paying the taxes and so forth. He is simply coming in asking for a modification. He wants to do this instead. He has every right to ask.

Mr. Cote asked if that plan is the subject of the Article 78 proceeding.

Mr. Carnazza replied no, the second one was.

Mr. Charbonneau said it's the proceeding before the zoning board in granting the variances not this board.

Mr. Carnazza said even if they get this approval, they could come back in three days and ask for another different approval. They are allowed to do that.

Mr. Giannico asked if there was a second structure on the original approval.

Mr. Carnazza said the second structure was Route 6 Retail which may be a Starbucks or something of that sort.

Mr. Cleary said if the applicant ever wanted to build that retail building on the second lot, he would have to come back to this for an amended site plan because of the lot change.

At which time, a discussion ensued amongst the board members regarding the original subdivision approval and the sketch plan before the board.

Mr. Contelmo said we are going to end up with a roadway, driveway that aligns with the Mahopac Village Center driveway and we are going to have bank on the left side and a small retail building on the right side. What we are doing is changing invisible lines that don't show up on the ground that surrounds those improvements and we are doing in a way that complies with your zoning code relative to lot area and lot width, etc. We believe that this conforming subdivision is very much in the spirit of the original one.

Vice-Chairman Paepre said and you don't need any variances now.

Mr. Contelmo replied that's correct. We don't need any variances for this proposal.

Mr. Stone said the currently approved plan is only two lots, there was interim proposal floated that had three lots that isolated the rear portion that is now being appended to lot #2. He said that never came before us.

Mr. Carnazza said that did come before you, but you never gave approval on it. He said it had to go to zoning.

Mr. Stone said so it went to zoning and at that point it was abandoned and we never saw it back.

Mr. Contelmo said yes you did see it back and you granted sketch plan, but we had abandoned it.

Mr. Cleary said so you could dismiss that one.

Chairman Gary asked Mr. Cleary what are they looking for.

Mr. Cleary said to schedule a public hearing.

Mr. Contelmo replied actually we are looking for sketch plan and deem it a minor subdivision and schedule a public hearing.

Mr. Stone stated the approved subdivision allows for the same functionality in terms of the proposed development and didn't necessarily have any special accommodations for the bike path, so what is the driver for changing that?

Mr. Carnazza said to create a map that doesn't need variances.

Mr. Stone said but they already got the variances.

Mr. Charbonneau replied yes, but there has been litigation brought against those variances, so in theory there's a possibility that if they were to lose those variances they would not be able to proceed with that project.

Mr. Stone said so that was brought against the original two lots.

Mr. Carnazza said no the second one.

Mr. Stone asked how does any litigation factor in since they abandoned that plan. He said there is no litigation on the approved lot.

Mr. Carnazza replied that's correct, but the approved lot has the bank with x amount of acres attached to it that they don't choose to have.

Mr. Stone asked what is the justification for that.

Mr. Contelmo said the driver is to put the bank on the minimum size lot that conforms.

Mr. Charbonneau said it's the quest of the planning board to ensure that these lots are conforming. So one of our duties and obligations as a planning board is to hope that we can do a project with conforming size lots which this project has.

Mr. Stone asked if the originally approved plan needed variances.

Mr. Charbonneau replied no.

Mr. Franzetti said the intermediary one. There were three.

Mr. Stone as far as we're concerned the intermediary doesn't exist. It was abandoned. He said the point is there is an approved two lot conforming subdivision, no variances are required that is allowing the applicant to do what they initially put forth as to what they wanted to do on these two lots.

Mr. Cleary said and they have said there are no changes to that and they want to do the same exact thing.

Mr. Stone said I ask the same question! What is the driver? The driver can't be to create conforming lots, because it was conforming.

Mr. Contelmo said the before the bank was on a 10 acre lot. The applicant seeks to get the bank on a minimum size lot, because the bank's lease and the bank on its own parcel has business abilities to conveyed out to others. The applicant has an interest in retaining this property for potential amenities into the future and retain it with the balance of the property that he wants to control. People think this changes access to rear property, but it is absolutely nothing different then taking that extra 7 acres and moving to the other lot.

Mr. Stone asked what stops the applicant from conveying that lot as previously subdivided to whomever he wished to convey it to?

Mr. Contelmo replied good business. He said we are changing our mind because we want the bank on a 3 acre parcel for business reasons to be able to potentially convey it out and

we want to retain the rest of the property and the driveway. He said I really think there's been a witch hunt established and everybody feels that there is funny business, but this is the simplest thing that I could imagine.

Chairman Gary stated to Mr. Contelmo I know exactly what you are doing, but the whole board needs to understand it before we go on.

Mr. Contelmo replied I understand.

Vice-Chairman Paepre said I actually prefer it without the variances, but I'm a little concerned about the bike path.

Mr. Cote said I don't anyone here has the intention of giving you or your applicant a hard time, but I think we all recognize that there is some concern from the community and we are the communities representative in what we do. We as a board need to ask the question why the plans have changed.

Mr. Contelmo apologized to the board members.

At which time, a discussion ensued regarding the bike path.

Mr. Contelmo stated to be clear the bike path was never on the subdivision plat. When we went for the variances and we produced the smaller lots and we showed all the different drivers so that sense could be made as to why the property lines and the lots were configured the way they were. He said we don't control the destiny of the bike path. We have absolutely no say.

Mr. Cleary stated and that is an important key for this. If they were to propose an easement across their property for the bike path and the County came along next month and said I want to put it somewhere else they would have put the easement in the wrong location.

Chairman Gary said it is a personal for me to see the bike path there, but I can't require the applicant to put the bike path in. It's not in this board's purview to do that.

Mr. Cleary replied absolutely! The applicant is not building the bike path.

Mr. Stone asked about the open space or conservation easement on the original map.

Mr. Contelmo stated there was a condition of the Zoning Board's variance, not this board, to place a conservation easement on the residual property which the applicant was agreeable to do.

Vice-Chairman Paepre moved to grant sketch plan approval and a public hearing. The motion was seconded by Mr. Cote.

A roll call vote was taken as follows:

Mr. Stone	For the motion
Mrs. Kugler	For the motion
Mr. Giannico	For the motion
Vice-Chairman Paepre	For the motion
Mr. Cote	For the motion
Chairman Gary	For the motion

Motion carries.

MK REALTY – ROUTE 6 & OLD ROUTE 6 – TM – 55.6-1-44 & 45 – RE-APPROVAL OF FINAL SITE PLAN

Mr. Carnazza had no objection to the re-approval. Why is it taking so long?

Mr. Franzetti had no objection to the re-approval. He said the original bond and engineering fees were posted in 2006 and he believes they should be upgraded when they finally do the work.

Mr. Contelmo stated in 2015 the board did raise the bond and engineering fees based on Mr. Franzetti's suggestion.

Mr. Franzetti asked to provide documentation on that.

Mr. Cleary had no objection to the re-approval of final site plan.

Chairman Gary asked how long has this been here.

Mr. Franzetti said it was approved in 2006.

Vice-Chairman asked Mr. Contelmo to summarize the project.

Mr. Contelmo said this is a small retail pad on the corner of Old Route 6 & Route 6 across the north end of Putnam Plaza. He said it was approved in 2006 as a small retail commercial pad. The applicant has kept up with all the approvals. He said the applicant is hopeful that some of the positive economic signs will yield a potential user.

Vice-Chairman moved to grant re-approval of final site plan for MK Realty. The motion was seconded by Mr. Giannico with all in favor.

WIXON POND ESTATES – 243 WIXON POND ROAD – TM – 53.20-1-19 – EXTENSION OF PRELIMINARY SUBDIVISION APPROVAL

Mr. Carnazza had no objection to the extension of preliminary approval.

Mr. Franzetti had no objection to the extension of preliminary subdivision approval as long as there are no changes being made to the site.

Mr. Cleary had no objection to the preliminary extension.

Mr. Joel Greenberg of Architectural Visions, representing the applicant addressed the board and stated the big delay is with the NYCDEP. He said for those 5 lots it took 6 years to get their approval and in that time, we had to satisfy the health department. He said because two of the lots the testing was done more than 10 years ago we have to re-test two lots and then we will come back for final approval.

Mr. Cote asked Mr. Greenberg to describe what the project involves.

Mr. Greenberg said it is a 5 lot subdivision off Wixon Pond Road. He said we have an open development approval from the Town Board for a private road. He said the entire frontage along Wixon Pond Road is all wetlands so the access is at the end. The private road comes up around into a cul-de-sac with 5 very big lots. Total acreage is 35 acres.

Mr. Carnazza asked when does your open development expire?

Mr. Greenberg replied February of 2018.

Mr. Cote moved to grant extension of preliminary subdivision approval for 6 months. The motion was seconded by Mr. Giannico with all in favor.

STONELEIGH WOODS AT CARMEL – STONELEIGH AVE – TM – 55.15-1-36,37 – BOND RETURN

Mr. Carnazza said he inspected the property today and has no objection to the bond return.

Mr. Franzetti read his memo which stated a representative of the Engineering Department performed several field inspections of the referenced property to evaluate the current status of the site construction, for the purpose of determining whether a bond reduction was warranted. The results of our investigation are presented below. The original bond amount posted was \$1,245,147.75, posted on November 1, 2006. This amount was reduced to \$320,695.00 on February 18, 2010, based upon a previous recommendation from this Department. 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 objection.

Mr. Giannico moved to schedule a public hearing. The motion was seconded by Mr. Cote with all in favor.

MINUTES - 1/25/17 & 02/08/17

Vice-Chairman Paepre moved to accept the minutes of January 25, 2017 and February 8, 2017. The motion was seconded by Mrs. Kugler with all in favor.

The meeting was adjourned at 7:56 p.m.

Respectfully submitted,

Rose Trombetta