



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

PLANNING BOARD MINUTES

APRIL 13, 2011

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

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
Shultz	55.7-1-3-5 & 55.11-1-18-21	1-2	Regrading	Public Hearing Closed.
RPK Homes	55.14-1-5	2	Senior Homes	Applicant was removed from Agenda.
Albrecht	53.12-1-27	2-3	Subdivision	Subdivision Resolution Accepted.
Woodcrest Gardens	76.9-1-19	3	Site Plan	Site Plan Resolution Accepted.
Sullivan, Neal	42.-1-22	3	Regrading	Regrading Resolution Accepted.
DeRaffele Retail Center	65.13-1-64	3-5	Site Plan	Waiver of Site Plan Approval Granted.
St. John the Evangelist	65.17-1-48&49	5	Site Plan	No Board Action.
Yankee Development	65.17-1-48	5-6	Subdivision	No Board Action.
Quis, Michael	55.6-1-42	6-7	Senior Homes	One Year Extension Granted Retroactive.
Putnam Community Foundation	66.-2-58	7-8	Senior Homes	Regrant of Approval granted.
Putnam Hospital	66.-2-57	8	Bond Return	Public Hearing Scheduled.
Hilltop Properties	75.19-1-6	8-9	Site Plan	Extension to July 15, 2011 Granted.
Dewn Holding	53.-2-28	9	Subdivision	6 Month Extension of Preliminary Approval Granted.
Michaels Glen	44.14-1-56, 57	9-10	Bond Return	Public Hearing Scheduled.
Minutes		10		Approved – 1/13/2011

The meeting was adjourned at 9:08 p.m.

Respectfully submitted,

Rose Trombetta

SHULTZ – OLD ROUTE 6 – TM 55.7-1-3-5 – PUBLIC HEARING

Mr. Karell stated he had no comments.

Mr. Cleary stated he had no comments.

Mr. Gary stated this was a public hearing and if anyone wished to come up and speak.

Mr. Ed Kuck the owner of 3 Day Road and is within 500 feet of the applicant's property stated he was for the project. He stated this is a good parcel of land for future development.

Ms. Ann Fanizzi approached the podium and stated the property is along the bike bath and hoped the developer would be sensitive to the path when it came time to building. She was concerned about what route the trucks will take every day of the week including Saturdays. She asked what route will they be taking.

Mr. Robert Cameron of Putnam Engineering, representing the applicant stated the route is Old Route 6. He stated according to the traffic study Old Route 6 and Route 6 is the best location for trucks to cross because it is a signalized intersection.

Ms. Fanizzi was also concerned about the Putnam Humane Society, the noise level and where the animals are walked daily will present a safety issue with trucks going in and out all day.

Mr. Richard O'Rourke the attorney for the applicant stated this is a public hearing and it has been properly noticed including the Putnam Humane Society.

Ms. Fanizzi further stated there should be a blasting protocol and is very concerned about the noise level.

Ms. Lori Kemp approached the podium and stated she agreed with Ms. Fanizzi. She said blasting is very noisy, dusty and stressful. She said the time frame of 3 to 4 years is a long time to be enduring explosions.

Mr. Jerry Ravnitzky approached the podium and asked if a permit was issued for the blasting.

Mr. Gary answered no.

Mr. Ravnitzky stated I hope the Town Board and Planning Board follow the laws as it currently exists with regards to blasting.

Mr. Greenwood moved to close the public hearing. The motion was seconded by Mr. Molloy will all in favor.

Mr. Gary stated the board will look at everything very carefully. He said a hillside is being taking down so that it could be developed. They have a right to take the material wherever they want to take it.

Ms. Kounine stated I wasn't at the last meeting for me to comment, but I am here tonight. This project came to this board many years ago and to this day I can not justify why we have to take a mountain down for maybe a half a dozen stores. There are a lot of empty stores right now and with the economy, I believe it will be several years before we get stable commercial business in there. I was against this project many years ago. I voted no then,

and I think there is a myriad of problems with it. I can't see 165,000 cubic yards being removed in three years unless they are moving trucks day and night, seven days a week. I believe it would be at least 5 years by the time they develop and build it. I don't think the community should have to look at a mountainside, stripped, bare and not attractive for 5 to 10 years. I see no advantage in this project.

Mr. Molloy stated I am not against the project. He said if anyone needs rock and gravel they will be able to get it. It's either going to get carted in from another town or it will be available from someone in our town. We could have commercial enterprise from day one. I agree this wouldn't be nice if we had the rural Putnam County from 50 to 100 years ago, but we don't. We have Putnam County 2011, we have to grow or we are going to die.

Ms. Kounine said I am pro-commercial development, but the location is not prime property. It is not Route 6. The applicant is looking to put smaller businesses there not box stores, it's not something that is going to pay \$100,000 to \$200,000 in taxes.

Mr. Cotè stated he agreed with the points that Mr. Molloy and Ms. Kounine were both making. He said the problem I have with this project is the uncertainty. When we ask questions we don't get clear answers. We have to consider the impact on the community. He stated before I could approve this I want more specifics, I need more facts.

A brief discussion ensued with the board members about the accountability of the time frame of the project.

Mr. Gary stated there are a lot of concerns and opinions on this project. He said I ask the board to direct the Planner to get someone to look at it and give an outline after an intense study to see what direction the board should be looking at.

The board had no objection to that.

RPK HOMES – SEMINARY HILL RD – TM – 55.14-1-5 – SITE PLAN DENIAL RESOLUTION

Mr. Charbonneau, Planning Board Attorney stated there was a request from the applicant to remove him from tonight's agenda and I have no objection to the board consenting to that.

Mr. Gary stated that's fine we will remove it from the agenda.

ALBRECHT, GEORGE – 50 ALAN DRIVE – TM – 53.12-1-27 – RESOLUTION

Mr. Karell stated a bond is not required for this subdivision.

Mr. Cleary stated there are two resolutions in front of you.

Mr. Greenwood moved to accept Resolution #11-14 dated April 13, 2011, Tax Map #53.12-1-27 entitled Albrecht Subdivision (SEQR). The motion was seconded by Mr. Cotè with all in favor.

Mr. Cotè moved to accept Resolution #11-15 dated April 13, 2011, Tax Map #53.12-1-27 entitled Albrecht Subdivision. The motion was seconded by Mr. Greenwood with all in favor.

WOODCREST GARDENS – 675 ROUTE 6 – TM – 76.9-1-19 – RESOLUTION

Mr. Karell stated all my comments have been satisfactorily addressed. We need an updated SWPP. The bond amount is \$136,056.00 and the engineering inspection fee is \$6,803.

Mr. Cleary addressed the board and stated you have two resolutions in front of you, the SEQR and final site plan approval. Since your authorization, the applicant has obtained comments from the Putnam County Health Department and has requested two minor amendments to the plan which you have not previously seen. One is the addition of a sidewalk and the other deals with the extension of a roof over a portion of the building. Those two changes need to be reviewed. You can act on the final site plan resolution subject to those two changes.

Mr. Molloy moved to accept Resolution #11-12 dated April 13, 2011, Tax Map #76.9-1-19 entitled Woodcrest Gardens (SEQR). The motion was seconded by Mr. Cotè with all in favor.

Mr. Greenwood moved to accept Resolution #11-13 dated April 13, 2011, Tax Map #76.9-1-19 entitled Woodcrest Gardens Final Amended Site Plan including the additional amendments that the Planner will review. The motion was seconded by Ms. Kounine with all in favor.

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

Mr. Meyer recused himself and left the podium.

Mr. Karell stated the bond amount is \$5,000.00 and the engineering inspection fee is \$250.00.

Mr. Cleary stated you have a regrading resolution in front of you.

Mr. Greenwood moved to accept Resolution #11-16 dated April 13, 2011, Tax Map #42.-1-22 entitled Sullivan Regrading Plan. The motion was seconded by Mr. Cotè with all in favor.

Mr. Meyer returned to the podium.

DE RAFFELE RETAIL CENTER – ROUTE 6 – TM – 65.13-1-64 – WAIVER OF SITE PLAN

Mr. Karell stated this project consists of new parking spaces to the rear of the building and striping of existing asphalt driveway to create 19 new parking spaces. The only comment I have is they should put directional arrows on the asphalt to restrict the traffic flow to one direction around the building. I have no objection to the waiver of site plan.

Mr. Cleary stated he has no objection to the waiver of site plan. He said aisles need to be indicated on the plan.

Mr. Greenwood stated I think the applicant should go through a site plan review.

Mr. DeRaffele stated he needed parking for his businesses which have increased.

Mr. Gary asked Mr. Cleary his opinion.

Mr. Cleary said I don't object to the waiver in this case. There is a parking deficiency in the area. This organizes the parking a little better.

Mr. Molloy asked these are businesses in Mahopac that are doing so well they need more parking spaces in 2011?

Mr. DeRaffele answered yes.

Mr. Giannico asked if there was a potential for a drainage issue.

Mr. Cleary answered no. He has a slope that prevents a drainage issue from occurring.

Mr. Molloy asked if in the code there was anything prohibiting waiver of site plan.

Mr. Cleary answered no.

Mr. Greenwood stated there seems to be more questions being raised about the site plan itself which I think can be resolved with an actual review.

Mr. Meyer agreed with Mr. Greenwood.

Mr. Gary stated there is no precedent on waivers.

Mr. Greenwood moved to deny. The motion was seconded by Mr. Meyer.

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

Mr. Giannico	Against the motion
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Mr. Cotè	Against the motion
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Mr. Molloy	Against the motion
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Mr. Meyer	For the motion
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Mr. Greenwood	For the motion
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Ms. Kounine	For the motion
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Mr. Gary	Against the motion
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Against the motion doesn't carry.

Mr. Molloy moved to grant waiver of site plan approval. The motion was seconded by Mr. Cotè.

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

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

**ST. JOHN THE EVANGELIST CHURCH – E. LAKE BLVD – TM – 65.17-1-48 –
OPINION FROM P.B. ATTORNEY**

Mr. Charbonneau, Planning Board Attorney addressed the board and stated I was asked to review two deeds that were submitted to me by Mr. Joel Greenberg. He said there is language within the adjoining neighbor's title which tends to create at least the possibility that there may be a legal interest in the applicant's property, specifically the conclusion of both deeds read lands. The adjoining property owner's deed contained language that seems to indicate that the neighbor may have a legitimate claim, "Lands within the old highway were roads between the Catholic Church property which is the applicant's property and the Methodist Episcopal Church property which is an adjoining piece of property and the property now or formerly of the Ballard estates". He said based on the limited information the applicant provided to me, I can't make a determination as to whether or not there is a legitimate interest by the applicant. The applicant did provide a subdivision map. Based on the lot configuration there is some confusion as to this paper road and an adjacent intersection that connects with McMahon Pl. He said I have requested a title report from the applicant's property. The explanations that I'm getting do satisfy me, but there are still some outstanding issues that I would like to discuss with Mr. Greenberg and Mr. Carnazza. At this time I don't have enough information.

Discussion ensued with the board members and Mr. Joel Greenberg on whether or not a title search was done when the property was bought.

Mr. Greenberg stated he will find out from the church.

Mr. Gary stated this needs to be resolved by the next meeting.

YANKEE DEVELOPMENT – PIGGOTT RD – TM 76.15-1-12 – REVIEW (NEG DEC)

Mr. Karell stated from my last comment later, I need additional information for preliminary approval. I have not seen any new plans. The applicant is here for negative declaration.

Mr. Cleary addressed the board and stated the question before you is whether you want to separate the negative declaration and allow the applicant to deal with the other regulatory agencies or wait until Mr. Karell's additional information is provided and do the neg dec along with the preliminary subdivision approval which is your typical approach.

Mr. Gary asked why is he here?

Mr. Cleary said the applicant is eager to continue with some of the other agencies and needs a neg dec before he could go back to the DEP, DEC and Health Dept.

Mr. Gary said that is a procedural change.

Mr. Cleary said the only thing I would comment on is Mr. Karell's memo is not lengthy. It's a few basic issues the applicant could provide and respond to relatively quickly and get a complete preliminary plot so the board could do it together. I don't think it is an outrageous request.

Mr. Greenwood stated I suggest the applicant complete all the requirements and come back with both a preliminary approval and a negative declaration and not separate the two.

Mr. Gary stated we will not separate the two and the answer is no. He said to meet with Mr. Karell.

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

Mr. Greenwood moved to go into Executive Session with the Planning Board Attorney, Mr. Charbonneau to discuss legal issues before we proceed. The motion was seconded by Mr. Molloy with all in favor.

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

Mr. Karell stated he had no objection to the regrant. The previously approved bond amount is satisfactory.

Mr. Cleary stated he had no comments.

Mr. Cotè read Mr. Carnazza's memo dated April 13, 2011 which stated it is still my opinion that the necessary variances were not granted and therefore the extension of approval needs to be denied until they are granted.

Mr. William Shilling, attorney for the applicant stated two months after he was granted site plan approval a density local law changed, so effectively my client spent three years going after a site plan which arguably could have been rendered moot by the new density regulations. During that time my client made 11 different submissions to the DEP. Your board gave extensions of the site plan approval each year and area variances were extended also. My client has spent over \$100,000 in fees. The reason for the delay was the DEP. We are at the cusp of being done. We secured DEP approval in December of 2009. We have DEC & DOT approval. I spent a lot of time with Mr. Charbonneau and showed him provisions Pursuant to Town Law 274-5 which says a planning board can waive variances or dimensional shortcomings. In this situation, where my client has spent a lot of money and many years trying to obtain final site plan approval and to make my client go back to the zoning board with new variances is unfair. At this time I am asking this board for an extension of approval for another year.

Mr. Gary asked when did the approval expire?

Mr. Joel Greenberg answered June of 2010.

Ms. Kounine moved to grant a one year extension retroactive to the date the previous extension expired. The motion was seconded by Mr. Meyer.

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

Mr. Giannico For the motion

Mr. Cotè For the motion

Mr. Molloy For the motion

Mr. Meyer For the motion

Mr. Greenwood For the motion

Ms. Kounine For the motion

Mr. Gary For the motion

**PUTNAM COMMUNITY FOUNDATION – STONELEIGH AVE – TM – 66-2-58 –
REGRANT OF APPROVAL**

Mr. Karell said he had no objection to the regrant and the bond is satisfactory.

Mr. Cleary said the only comment I have is in the submission letter there wasn't a detailed explanation for the request.

Mr. Greenwood questioned the water and sewer taxes not being paid on the vacant property. He said we talk about fees to the town, a tax is a fee. The same applicant has a piece of property in the Town of Southeast which has been established and has income coming in and has the same issue. Should this be clarified before this board takes any action on a regrant of approval?

Mr. Gary said I understand what Mr. Greenwood is saying, but I have to go by my experience with being on this board. In my 27 years, I don't ever remember this board to consider whether the taxes are being paid on a piece of property. For us to get involved in this is going beyond what our duties are.

Mr. Cleary said on a subdivision of land, one of the requirements is the taxes must be paid. This is a site plan and no such requirement exists in our laws and we never troubled ourselves with that issue. It's not the Planning Board's responsibility to deal with private properties tax levy. It's a separate issue.

Mr. Joseph Charbonneau, ESQ., said he agreed and if there was an outstanding tax warrant with respect to the Town the County would cover that. The Town wouldn't be out any money.

Decision of the Board

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

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

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

PUTNAM HOSPITAL – STONELEIGH AVE – TM – 66-2-57 – BOND RETURN

Mr. Karell said he recommended bond be returned in full, but there are some issues of soils on the steep slopes of the detention ponds. I recommend a \$50,000 maintenance bond be posted and held for 2 years. It would be a new maintenance bond.

Mr. Cleary stated he had no comments.

Ms. Kounine asked for clarification as to whether or not the \$742,000.00 bond will be released until the new \$50,000 maintenance bond is posted.

Mr. Karell said that is correct. The Town Board will release the performance bond and at the same time the applicant will post the maintenance bond.

Mr. Gary said to schedule a public hearing.

HILLTOP PROPERTIES – ROUTE 6 – TM – 75.19-1-6 – REGRAVING OF APPROVAL

Mr. Karell stated he had no comments.

Mr. Cleary said this application was before you last winter and you considered a regrant at that time. The applicant is now seeking an extension. At that meeting, the board very forcibly directed the applicant to clean up the site. And a condition of the regrant was that the site be cleaned up. We need to have Mr. Carnazza verify that all of the items you required the applicant to do in terms of cleaning up the site have been satisfactorily done.

Mr. Joel Greenberg, representing the applicant stated the blasting and regrading was done. We are at a point where the grades are where they should be. We have paid all our fees and bonded the project. The only reason we are here tonight is there is a provision that says you must apply and obtain a building permit with one year. We need an extension for that requirement. As soon as, Mr. Carnazza receives the last bit of information that was requested, he will be able to issue the building permit.

Mr. Cleary stated I recommend the board not take any action tonight until Mr. Carnazza could confirm that the work has been satisfactorily done.

Mr. Gary stated the applicant has had plenty of time to get a building permit as far as I could see. His intention was to get an approval, tear the hill down and get whatever he could out of that hill. Maybe someday he will build a building.

Mr. Greenwood moved to grant the extension to July 15, 2011. The motion was seconded by Mr. Meyer.

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

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

DEWN HOLDING – MEXICO LANE – TM – 53.-2-28 – EXTENSION OF PRELIMINARY SUBDIVISION APPROVAL

The consultants had no objection to the extension. They stated the delay was due to DEP.

Mr. Cotè moved to grant a six month extension of preliminary subdivision approval. The motion was seconded by Mr. Meyer with all in favor.

MICHAELS GLEN – FAIR ST – TM – 44.14-1-56,57 – BOND RETURN

Mr. Meyer recused himself and left the podium.

Mr. Karell said he inspected the construction on April 10, 2011. The inspection indicated the construction was completed in accordance with the plans we approved. The roads, common driveways and stormwater facilities were recently accepted for dedication by the Town Board. A maintenance bond is not required for this project because the top course of pavement has been in place for more than a year prior to the dedication. I recommend the \$208,820 bond amount be returned in full.

Mr. Cleary said he had no comments.

Mr. Gary said to schedule a public hearing.

Mr. Meyer returned to the podium.

MINUTES – 1/13/2011

Mr. Molloy moved to accept the minutes. The motion was seconded by Mr. Greenwood with all in favor.

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

The meeting was adjourned at 9:08 p.m.

Respectfully submitted,

Rose Trombetta