

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**



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MICHAEL CARNAZZA
*Director of Code
Enforcement*

RICHARD FRANZETTI, P.E.
Town Engineer

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

PLANNING BOARD MINUTES

NOVEMBER 28, 2018

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

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
Cargain Funeral Homes, Inc.	75.15-1-6	1	P.H.	Public Hearing Closed & Bond Return Recommended to Town Board.
Gonzalez, Nidia & Enrique	54.5-1-84	1-2	P.H.	Public Hearing Closed & Planner To Prepare Resolution.
Zalesiak, Robert	64.13-1-8	2	P.H.	Public Hearing Closed & Resolution Adopted.
Random Ridge Subdivision	76.10-1-23	3	P.H.	Public Hearing Closed & Bond Reduction Recommended to Town Board.
The Retreat at Carmel HOA Inc Carmel Centre Senior Housing (Lot 4)	55.14-1-11.2	3-7	P.H.	Public Hearing Closed & Planner To Prepare Resolution.
Romash, Rick	44.14-1-47	7-9	R. Site Plan	No Board Action.
The Hamlet at Carmel	66.-2-58	10		1 Year Extension Granted.
Minutes – 11/14/18		11		Approved.

The meeting was adjourned at 8:17 p.m.

Respectfully submitted,

Rose Trombetta

CARGAIN FUNERAL HOMES, INC. - 416 ROUTE 6 - TM - 75.15-1-6 - PUBLIC HEARING

Mr. Carnazza stated everything is in compliance with zoning.

Mr. Cleary had no comments.

Vice Chairman Paepre asked if anyone in the audience wished to be heard on this bond return.

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

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

GONZALEZ, NIDIA & ENRIQUE - 67 DIXON ROAD - TM - 54.5-1-84 - PUBLIC HEARING

Mr. Carnazza said all his comments have been addressed.

Mr. Cleary stated there are no planning comments on this application.

Mr. Franzetti stated all engineering comments have been addressed.

Vice Chairman Paepre asked if anyone in the audience wished to be heard on this application.

Mr. Bob Komosinski of 71 Dixon Road, applicant's neighbor addressed the board and stated he received a letter in the mail and wanted to know what was going on.

Mr. Dan Holt, applicant's engineer addressed the board and stated about a year ago, fill was brought into the backyard which turned out to be inside a wetland. A lot of the fill contained construction demolition material. We are here to get approval to remove the fill and put it back the way it was before.

Vice Chairman Paepre asked what could get done this year, if anything.

Mr. Holt replied I believe this year we could get the bulk of the construction demolition material out of there.

Mr. Carnazza stated and the silt fence is up, correct?

Mr. Holt replied we put it up immediately.

Vice Chairman Paeprrer stated we could speed up the preparation of the resolution, so we could get things moving. It would benefit the project and the neighbors.

Mr. Cleary stated you could move to have a resolution prepared and have the Chairman execute in the next couple of days which will save him the two weeks.

Vice Chairman Paeprrer asked the audience if anyone else wished to be heard on this application.

Hearing no further comments from the audience, Mr. Cote moved to close the public hearing. The motion was seconded by Mr. Stone with all in favor.

Mr. Giannico moved to authorize the Town Planner to draft a resolution for execution by the Chairman. The motion was seconded by Mr. Furfaro with all in favor.

ZALESIAK, ROBERT – 260 AGOR LANE – TM – 64.13-1-8 – PUBLIC HEARING & RESOLUTION

Mr. Carnazza said this is on for a public hearing and has no comments.

Mr. Cleary stated there are no planning issues with respect to this application. Also, you have a draft resolution before you to be voted on.

Mr. Franzetti stated all engineering comments have been addressed.

Vice Chairman Paeprrer asked if anyone in the audience wished to be heard on this application.

Hearing no comments from the audience, Mr. Furfaro moved to close the public hearing. The motion was seconded by Mrs. Kugler with all in favor.

Vice Chairman Paeprrer asked when does the applicant plan on doing this, now or in the spring.

Mr. Jack Karell, applicant's engineer replied he would like to do it now.

Mr. Cote moved to adopt Resolution #18-27, dated November 28, 2018; Tax Map #64.13-1-8, entitled Zalesiak Regrading Plan. The motion was seconded by Mr. Giannico with all in favor.

RANDOM RIDGE SUBDIVISION – KENNICUT HILL ROAD – TM – 76.10-1-23 – PUBLIC HEARING ON A BOND REDUCTION

Mr. Carnazza stated this is on for a bond reduction, the building department does not comment on bond reductions.

Mr. Cleary had no comments.

Mr. Franzetti read his memo which stated in response to a request by the above applicant, a representative of the Engineering Department performed a field inspection of the referenced property on November 14, 2018 (along with numerous field inspections during construction) 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, which is currently being held, is \$1,967,000.00. The applicant has provided the attached breakdown of items completed and items that remain outstanding. This Department has no objection to the breakdown submitted. The work remaining totals \$334,350.00. However, the policy of the Board is to not entertain a bond reduction below 20% of the original Bond amount. We therefore recommend a bond reduction of \$1,573,600.00, leaving a balance of \$393,400.00 (20%).

Vice Chairman Paerprer asked if anyone in the audience wished to be heard on this bond reduction.

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

Mr. Cote moved to recommend bond reduction to the Town Board. The motion was seconded by Mr. Stone with all in favor.

THE RETREAT AT CARMEL H.O.A. INC – CARMEL CENTRE SENIOR HOUSING – LOT 4 – BLAIR HEIGHTS – TM – 55.14-1-11.2 – PUBLIC HEARING

Mr. Carnazza had no additional comments.

Mr. Cleary had no further site planning issues.

Mr. Franzetti had no further engineering issues.

Vice Chairman Paerprer asked if anyone in the audience wished to be heard on this bond reduction.

Mr. Spencer Tassler a resident of the Retreat addressed the board and stated we are very positive to this amenity. He said this is a substitute amenity that we had which is a

pitch and putt. He said my only objection tonight is to make sure that the amenity Pulte Homes put in originally is put back to the correct order they found it. At which time, Mr. Tassler passed around pictures to the board members of what the area looked like which contained wetlands with many trees. He stated that the pitch and putt application was in front of the ECB a few weeks ago regarding what they are going to move where the pitch and putt is. Some of the items that have to be removed are the sand traps, greens, poles, netting, etc. He said what we are asking for is the \$65,000 bond on the pitch and putt.....

Mr. Charbonneau interjected there are multiple double bonds. He said this project is double bonded. He said the town is in litigation over that.

Mr. Tassler stated we are in the middle of transitioning with Pulte. He said my primary concern is whatever Putnam Engineering is asking the ECB to do is to make sure that we get trees. He said there was a tree preservation on lot #5 and they put the trees back in this past summer and they put a bond on that for 5 growing seasons. He said where the wetlands are now, is a disaster. He said when they got their permit from the ECB in 2011; they did not wait to cut the trees down. They just went there and cut the trees down and are in violation. He said there was also a maintenance plan for 3 years, which they never adhered to. What I saying is, Pulte Homes has defaulted. He said before we go through the expense removing things, I want to make sure that we are protected.

Hearing no further comments from the audience, Mr. Furfaro moved to close the public hearing. The motion was seconded by Mr. Giannico with all in favor.

Mr. Furfaro asked if the applicant in front of us is from the HOA.

Mr. Paul Lynch of Putnam Engineering, representing the applicant replied that's correct. The HOA is the applicant.

Mr. Charbonneau stated the HOA has an application before the ECB regarding some of the concerns.

Mr. Furfaro stated it sounds like the HOA is trying to get Pulte to do some of the removal of the pitch and putt. Is that what I'm understanding.

Mr. Lynch stated I'm not privy to those conversations.

Mr. Carnazza said there was a large fence put up because it was a golf course. He said that fence is still sitting there. He said their feeling is to have it removed by Pulte and not be the responsibility of the HOA.

Mr. Stone stated the application in front of us right now is the applicant is the HOA to have this done and it is not in the same location as the pitch and putt.....

Mr. Furfaro stated part of this application is the HOA is going to remove the pitch and putt that is already there.

The board members discussed whether or not if plantings were ever discussed with regards to the pitch and putt. All that was discussed was the removal of the fence, sand, poles, etc. and restore it back to nature.

Mr. Furfaro asked what is the application that is front of the ECB?

Mr. Cleary said the pitch and putt is in the wetland buffer, so they need a permit to do any work.

Mr. Furfaro then asked Mr. Charbonneau if there any mechanism to get Pulte to do some of these removals.

Mr. Charbonneau replied there are multiple bonds for that property and there has been a request to return those bonds. The request has been denied. There has been litigation filed and that's something that may get resolved through litigation.

Mr. Stone said this site plan application also includes the restoration of the pitch and putt, correct?

Mr. Lynch replied yes. There is a restoration plan with the submission and it is the same plan that is with the ECB.

Mr. Stone stated if we approve the application, we approve this plan as well as the restoration as proposed by the HOA subject to the ECB's approval.

At which time, Vice Chairman Paepre asked Mr. Lynch to give an overview of the project.

Mr. Lynch stated this site was originally going to be six manor homes. They had started construction back in the early 2000's. For whatever reason they decided not to pursue them and the site was graded off. A couple of years later, Pulte Homes came in with an amended site plan to change some of the housing units from a 2 story building to a 3 story building, so this became a vacant lawn area. At this point in time, the HOA wants to take this lawn area and create a park setting and have this in lieu of the pitch and putt that's on the other side, backside of the property.

Mr. Stone asked if he had the restoration plan for the pitch and putt.

At which time, Mr. Lynch displayed the drawing showing the existing pitch and putt plan which he went on to describe. He said we are going to restore it and let Mother Nature reclaim it.

Mr. Cote stated the pictures that were given us clearly show wetlands (water). He asked do you have to bring in fill.....

Mr. Lynch replied no.

Mr. Cote asked what happened to the water?

Mr. Lynch said it is still there.

Mr. Carnazza stated the ECB is either going to approve it or amend it.

Mr. Stone asked if the ECB amends it, do they have to come back to us?

Mr. Cleary said it depends on what it is. He said the restoration shouldn't affect your approval.

Chairman Gary asked Mr. Cleary if they had final approval on the pitch and putt.

Mr. Cleary replied yes.

Chairman Gary asked who brought this application back?

Mr. Cleary replied it's no longer Pulte Homes, it's the HOA.

Chairman Gary asked why is this board involved with that.

Mr. Cleary said because it is an amendment to the site plan. The physical location of the pitch and putt is going away and there is a different location for the recreational amenity. He said it is the homeowners' choice to do this, they were never happy about the pitch and putt. That was a Pulte plan.

Mr. Charbonneau stated there was an amendment made to the approved site plan. They are essentially swapping out one piece of recreation for another in order to be in conformity with our bulk zoning requirements.

Mr. Stone stated even though the property transferred now to the HOA, those site plan requirements remain.

Mr. Cleary said that's correct. It's the site not the owner.

Mr. Cote asked Mr. Cleary if we could move forward with the resolution or do we have to wait until they go to the ECB.

Mr. Cleary replied you could do it subject to ECB approval. He said if something major changes they have to come back, but I don't anticipate that.

Mr. Giannico stated he would like to hold off on the resolution until we at least hear what the ECB's comments are.

Vice Chairman Paepre stated we will adjourn the item, until the ECB issues their comments.

ROMASH, RICK – 19 FAIR STREET – TM – 44.14-1-47 – RESIDENTIAL SITE PLAN

Mr. Carnazza read his memo which stated the applicant wishes to change a two story commercial building with apartments below. The commercial is on the top floor. He said we received a submission that they wanted to put a home daycare in one of units. He said I don't think the intent of that law is for commercial buildings, I think it is for a one family dwelling, but I'll find out from the State. Provide a detail of trash enclosure. Use variance is required from the ZBA to convert the 2nd space into an apartment. Five area variances are also required.

Mr. Cleary stated the philosophical issue here is the conversion of that ground floor space in a commercial zone to a residential use. He said that strip of Fair Street is a fairly significant commercial corridor between the high school. So the notion of eliminating ground floor commercial space and adding residential space is contrary to the zoning. That's why he needs the use variance. He said the applicant has provided more information about the location of residential uses along that corridor. The applicant is proposing to add to the residential use a home daycare facility.

Mr. Franzetti had no comments.

Mr. Joel Greenberg of Architectural Visions, representing the applicant addressed the board and stated one of the questions that was brought up was where are there first apartments along the stretch of Fair Street. He said directly across the street there is a unit with an apartment on the 1st floor. Two doors down there are apartments on the 1st floor. He said there are series of them as you go further down Fair Street. He said the idea was to have a residential daycare in the new 1st floor apartment. He said my applicant has owned this building for 25 years and 13 years of it the office on the 1st floor has been vacant. He said if the daycare is permitted, according to the state, this type of daycare with a maximum of 12 children has to be in a residential unit. This could be used as daycare if it comes about, if it doesn't we have shown that there are a fair number of 1st floor apartments in the area. He said basically we look to go to the zoning board and plead our case and grant the use variance plus a series of area variances.

Mr. Carnazza asked why wouldn't you do a commercial daycare on the 1st floor and keep your 2nd floor office and keep the apartment where it is and you don't need a use variance.

Mr. Cote stated we need a little more clarification with regards to the letter that was sent.

Mr. Greenberg stated if we do a commercial daycare we would have two exits out of every room which would be almost impossible because you are above grade. You would have

to have a multitude of bathrooms. He said yes it could be done, but the cost to this particular person that is interested in it would be prohibited.

Mr. Carnazza said if you do 12 children in a regular daycare, obviously you are still less because it's based on the number of children.

Mr. Rich Romash stated they rate you on the maximum children you get into space as certified. He said if you go in as commercial you would be certified for 50 to 75 children, they are going to rate the premises on that, not the 12. If it's a home daycare, they will rate on the 12 children. He said his biggest unit has been empty for over 13 years, and it's killing me. He said the daycare just came about and it's a wonderful situation and hopefully you could see the value of that.

Vice Chairman Paepre stated the last time you were in front of the board it was residential on the 1st floor now you want to open a daycare. What is it tonight?

Mr. Greenberg stated right now we have two units that are commercial and one is an apartment. That's the way it has been for years. What we want to do is keep the commercial which is Mr. Romash's office upstairs and also on the 2nd floor is an apartment which we want to keep. The only thing we want to do is change the 1st floor from office space to residential space.

At which time, Mr. Greenberg displayed the map showing the apartments on the 1st floor along Fair Street.

Mr. Stone asked Mr. Cleary if this board determines whether the use is appropriate, that's a zoning issue?

Mr. Cleary stated in this case the use is inappropriate, that's why they have to go to the zoning board.

Mr. Stone stated typically a residential daycare is in a home and has extra space and the owner of the house lives there. This may not be the case here.

At which time, a discussion ensued regarding daycare standards.

Mr. Stone asked for clarification on what this board is being asked to approve and why.

Mr. Carnazza replied conversion of one unit from commercial to residential.

Vice Chairman Paepre stated in character with the neighborhood wouldn't the daycare be more fitting with the downtown rather than an apartment.

Mr. Carnazza replied it's more permitted.

Mr. Furfaro stated in general having residential in your downtown on the 1st floor is not a preferred planning use.

Chairman Gary stated you need the Planner to lay out everything the applicant wants to do, the pros and cons and what can be done. He said our concern is to address his problem in a way that would benefit him and subject the town to anything that is illegally done.

At which time, the board members continued to discuss the use of the daycare.

Mr. Cleary asked the applicant the issue is the use of the 1st floor, can you relocate the office to the 1st floor?

Mr. Romash replied the upstairs is very small.

Mr. Greenberg stated the office upstairs is only 1,000 square feet; the apartment on the 1st floor is much bigger which is about 1500 to 1600 square feet.

Mr. Stone asked if any other site improvements are being proposed.

Mr. Greenberg replied nothing will change at all. The parking requirements are met.

Vice Chairman Paepre stated we should let Mr. Carnazza get the answers from the State and ask Mr. Cleary to get some clarity on this as the Chairman suggested and put it on the next agenda to talk about it some more. I do not feel comfortable sending it to the zoning board yet. We should have more answers in two weeks.

The board members agreed with the Vice Chairman.

Mr. Stone asked if there was a brief summary of the actual changes or lack thereof to the site.

Mr. Greenberg replied there are no changes to the site.

Mr. Carnazza said to put a note on the map saying there will be no physical changes to the exterior of the property.

Mr. Greenberg said that's fine. He said the only thing we will be doing is striping the parking lot.

THE HAMLET AT CARMEL – STONELEIGH AVE – TM – 66.2-58 – EXTENSION OF FINAL SITE PLAN APPROVAL

Mr. Carnazza had no objection to the extension.

Mr. Cleary had no objection to the extension.

Mr. Franzetti had no objection to the extension.

Vice Chairman Paepre asked what do you anticipate happening to the site during this extension period.

Mr. Jeff Contelmo of Insite Engineering, representing the applicant stated as the board is aware we represent several developers who do have multi-family senior housing projects that were approved sometime in the last 5 to 10 years when the real estate market was quite different. He said the ability to finance, build, develop and sell or rent senior housing in the Town of Carmel is very difficult. Mr. Kearney who is a principal in this particular project and is the applicant wrote a letter to the Town Board and copied your board, basically expressing those sentiments. He asked if the town could consider any relief to their code it would certainly open up other opportunities. He said the senior restriction makes the available market very narrow and very difficult. He said this a residential zone property and the only types of residential uses permitted are 3 acre single family homes or special use permit for senior housing. He said Mr. Kearney's hope is that market changes in the short term or some relief is considered to make something happen.

Mr. Cleary stated two years ago this board sent a recommendation to the Town Board to modify that senior housing zone and permit non-age restricted housing. The Town Board did not act on it at the time. The Town Board has directed me to update that memo and it will be before you at the next meeting which basically says the same thing which is the elimination of age restriction. He said I think the developers are aware that the town is considering this and they are trying to keep their approvals viable until the rules change to allow them to build something that is economically viable.

Mr. Giannico asked on this one year extension if it was to go the full year, they would be back to square one, correct?

Mr. Cleary stated this is their 1st extension request, it was a re-approval the last time and this is their 1st extension.

Mr. Carnazza said next it will be a re-approval again.

Mr. Furfaro moved to grant a one year extension of final site plan approval. The motion was seconded by Mr. Giannico with all in favor.

MINUTES – 11/14/18

Mr. Cote moved to accept November 14, 2018 minutes. The motion was seconded by Mr. Furfaro with all in favor.

Mrs. Kugler moved to adjourn the meeting at 8:17 p.m. The motion was seconded by Mr. Stone with all in favor.

Respectfully submitted,

Rose Trombetta