

# **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](http://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*

## **PLANNING BOARD MINUTES**

**DECEMBER 12, 2018**

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

**ABSENT:** CARL STONE

<b><u>APPLICANT</u></b>	<b><u>TAX MAP #</u></b>	<b><u>PAGE</u></b>	<b><u>TYPE</u></b>	<b><u>ACTION OF THE BOARD</u></b>
The Retreat at Carmel HOA Inc Carmel Centre Senior Housing (Lot 4)	55.14-1-11.2	1	Resolution	Resolution Adopted.
Romash, Rick	44.14-1-47	1-4	R. Site Plan	Denied to the ZBA.
McDonald's USA, LLC	86.11-1-22	4-6	A. Site Plan	Public Hearing Scheduled.
Minutes – 11/28/18		6		Approved.

The meeting was adjourned at 7:58 p.m.

Respectfully submitted,

Rose Trombetta

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

Mr. Carnazza had no comments.

Mr. Cleary stated all his comments have been addressed and you have a draft resolution before you to be voted on.

Mr. Franzetti had no comments.

Mr. Cote moved to adopt Resolution #18-28, dated December 14, 2018; Tax Map #55.14-1-11.2, entitled Pulte Homes – Lot 4 –The Retreat at Carmel Amended Final Site Plan. The motion was seconded by Mr. Furfaro with all in favor.

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

Mr. Carnazza stated Mr. Greenberg submitted the NYS Office of Child and Family Services law to me to review, because I was a little confused about running this in an apartment in a building as opposed to a one family dwelling. It looks like it's okay. I put in a call to them, but they haven't gotten back to me in the last two weeks. He said they need a use variance and five area variances from the zoning board of appeals.

Mr. Cleary had no further comments.

Mr. Franzetti read his memo which stated the application involves converting an existing office space into an apartment and or residential day care center. Based upon review of the plans provided the Engineering Department offers the following preliminary comments:

- Additional information should be provided regarding water/wastewater use (quantity) and the control of debris (i.e., disposal of wipes) if the proposed use is a day care center.
- As long as there are no changes being made to the site this Department does not have any additional comments related to this project.

Vice Chairman Paepre stated we have bounced back and forth with this and reading the materials for tonight I'm not certain what it's going to be or what you are proposing it to be, daycare or residential. He asked do we know yet?

Mr. Joel Greenberg of Architectural Visions, representing the applicant addressed the board and stated we met with Mr. Cleary to go over everything and as Mr. Carnazza stated we got the code requirements from New York State which I forwarded it to him. It specifically says childcare can be done in a multi-use building. It doesn't have to be a one family house. The only caveat is the person that is running the operation must live in the apartment, which is exactly what's going to happen if it gets approved. He said you have the letter from the person who will be the director of the daycare indicating that

she would be willing to do a five year lease with a five year option. So, they would be there for at least 10 years. The other concern was what Mr. Franzetti stated was before we could get to that point; we still need to go to the zoning board for the variances. He said the area variances are basically because the building is there, it's pre-existing, non-conforming, and it doesn't meet the present setbacks. He said the other concern from the board members were there residences apartments on the 1<sup>st</sup> floor within the area that we are located.....

At which time, the Town Board Members entered the meeting room and together with the Planning Board Members wished Chairman Gary the best of luck in his retirement and for over 30 years of service.

Mr. Greenberg stated this is the same site plan that was presented previously. He said one thing that was discussed at the last meeting was how will the people know that this daycare is here. He stated Mr. Romash sent the sign to me and we superimposed the childcare sign onto the drawing to get a visual of what it will look like. Again, the most concerning from the board members where are we as far as apartments on the 1<sup>st</sup> floor in a commercial zone. He said we went up and down Route 52 and Route 6 all within a commercial zone and took pictures of buildings that were not commercial. At which time, Mr. Greenberg displayed a map indicating many, many apartments in a commercial zone along Route 52 and Route 6. He said at this time, I am asking that you deny us to the zoning board for the use and area variances.

Mr. Carnazza asked are these mixed uses or dwellings.

Mr. Greenberg replied they are dwellings.

Mr. Furfaro stated I don't have a problem with daycare on the 1<sup>st</sup> floor, but I do have a problem with residential on the 1<sup>st</sup> floor in a business district. I don't think that's good planning. Again, I don't have an issue with a daycare, but I don't know how you maintain that it will stay a daycare. How do you enforce that? Once it becomes residential, it's residential.

Mr. Carnazza said I cannot enforce that.

Vice Chairman Paeprrer asked why can't you move the business downstairs and residential upstairs.

Mr. Carnazza stated the daycare would have to be on the 1<sup>st</sup> floor.

Mr. Greenberg said that's the problem.

Vice Chairman Paeprrer stated I agree with Mr. Furfaro. The daycare downstairs fits, but residential doesn't fit.

Mr. Greenberg stated based on the state code it has to be in a residential unit. He said the 1<sup>st</sup> floor is much bigger than the office area. He said if we get the variances, we

would have to come back for final site plan approval and we'll address all the issues. He said give us the opportunity to go to the zoning board.

Mr. Romash stated if you go up and down the area you will see "for rent signs" everywhere on the commercial component of it, nothing for residential. He said for me it has been impossible to rent this commercially.

Mr. Carnazza stated if you choose to do this and the board grants it and they decide to go commercial they would have to come back here for the commercial use at that point.

Mr. Furfaro stated there is no way of policing this. He said whether it becomes a daycare or not it is still residential.

Mrs. Kugler said there is no guarantee of how long it's going to stay as a childcare; it could easily switch over to a straight residential.

Vice Chairman Paepre asked Mr. Cleary if they could approve this based on a daycare being on the 1<sup>st</sup> floor. He said we could only approve it based on residential, correct?

Mr. Cleary replied that's correct. He said they are seeking a use variance to put a residential use in that space. He said how the residential space is used, that becomes effectively a permit issue with Mr. Carnazza.

The board members and applicant continued to discuss residential use versus commercial use.

Mrs. Kugler stated this would be a childcare as opposed to daycare, correct? She asked you can't put in a daycare?

Mr. Romash replied no. It doesn't have the right structure requirements to be a commercial daycare.

Mr. Greenberg stated as per NYS code, childcare has to be in a space that is residential.

Vice Chairman Paepre said so the childcare would go downstairs and there would have to be a live-in.....

Mr. Greenberg replied yes, the director will be living in the apartment which is also a requirement of the state.

At which time, Mr. Giannico moved to deny the application to the zoning board. The motion was seconded by Mr. Cote.

**A roll call vote was taken as follows:**

Mr. Cote	For the motion
Mr. Furfaro	Against the motion
Mrs. Kugler	Against the motion
Mr. Giannico	For the motion
Vice Chairman Paepre	For the motion
Chairman Gary	For the motion

Motion carries.

**MCDONALD'S USA, LLC – 154 ROUTE 6 – TM – 86.11-1-22 – AMENDED SITE PLAN**

Mr. Carnazza stated my only comment was to provide a list of all previously approved variances on the plat.

Mr. Cleary stated this is back before you because there are some relatively minor modifications to the site plan. He said this probably could have been a field change, because they are adjusting the pickup windows slightly and the size of the cooler behind the building has gotten a little bigger.

Mr. Franzetti read his memo the overall disturbance for the project as proposed is 3,820 square feet, which is below the threshold criteria of disturbance for New York State Department of Environmental Conservation (NYSDEC) stormwater regulations. However for the prior construction project the overall disturbance was 2,100 square feet. Is that in addition to or is the 3,820 the total area of disturbance including the first go around and were the first site amendments completed already.

Mr. Alan Roscoe of Core States Group, representing the applicant replied no. They have not been completed. He said this is an amendment to a previously approved plan. The overall disturbance is 3,820 square feet.

Mr. Franzetti stated so the overall disturbance is 3,820 square feet. He said a note should be added to the drawings stating that all sidewalks, manholes and guiderails should be installed per §128 of the Town of Carmel Town Code. Soil Erosion and Sediment Control notes on Sheet C2 (see note 5) should match note on Sheet C3 (Phase II Note 1). It is unclear how silt sock will work across travelled way during restaurant operations. If the restaurant isn't open during operations then it's fine.

Mr. Roscoe stated ultimately there will be a closure of some duration. He said we will try to keep it open, but there will be a full closure for about a one week or so.

Mr. Cote asked is the additional 1,700 square feet just the cooler.....

Mr. Roscoe replied no. The additions are very minor; we are looking at about 500 square feet. The freezer cooler is being replaced and slightly enlarged. The pickup window and the pay window are being renovated, re-constructed and slightly enlarged. He said it is probably a net of 500 square feet of structure, but part of that work involves us relocating a sewer manhole that's part of the wastewater system that goes to the grease trap. He said right now, where the freezer is expanding to is where the existing manhole is. We have to relocate the manhole, alter some of the drive-thru, paving and curbing and that's where the area of alteration comes from. The additions are fairly small. It's the land disturbance that is increasing.

Mr. Furfaro asked how will it look from an elevation prospective?

Mr. Roscoe said it is the same drawings you approved before, except that the freezer cooler is added. At which time, Mr. Roscoe displayed the drawings to the board members.

Mrs. Kugler asked if the freezer cooler will conflict with any vehicular space.

Mr. Roscoe replied no. He said we will be adding 10 feet to the cooler.

Vice Chairman Paepre asked Mr. Roscoe to go over the plan again.

Mr. Roscoe stated this parking row (points to map) the parking spaces were excessively wide, so we could give up a few feet and still be in compliance and keep the count the same. He said because we are moving this island back, we also saw an opportunity to provide a painted striped out area for a pedestrian pathway (points to map). Also, we designated two spaces (points to map) for ADA compliance and provided a pathway that meets all the slope and pitch requirements. Part of this program is driven by the renovations to the interior and ADA improvements. He said almost every restaurant is having ADA improvements to the restrooms and a pathway has to carry out through the building and exterior to the ADA parking spaces.

Mr. Furfaro asked Mr. Cleary what's next.

Mr. Cleary said the next step is the public hearing.

Mr. Roscoe asked if it could be waived.

At which time, a discussion ensued regarding the path of traffic to the drive-thru with the two parking areas and most people go to the first parking area to get to the drive-thru. It was recommended to go to the second parking access to get to the drive-thru and put a yellow line where the first parking area to avoid getting tangled up.

Mr. Roscoe stated we did think of a very similar situation to that initially, but we don't own the land. We would need to get permission from the landowner to do so. He said we did think about closing the first access point to get to the drive-thru.

The board members and applicant continued to discuss the traffic flow to the drive-thru.

Vice Chairman Paeprrer asked Mr. Roscoe to take another look at the traffic pattern prior to the next meeting which is the public hearing.

Mr. Roscoe replied we will investigate it again.

Vice Chairman Paeprrer stated we all like what you are doing, we just want to work on the traffic flow if you can.

Mr. Cote stated you have certainly made a bad situation better, maybe there is a room for a little more improvement, but we do appreciate what you have done.

### **MINUTES – 11/28/18**

Mr. Cote moved to accept November 28, 2018 minutes. The motion was seconded by Mr. Giannico with all in favor.

Mr. Cote moved to adjourn the meeting at 7:58 p.m. The motion was seconded by Mrs. Kugler with all in favor.

Respectfully submitted,

Rose Trombetta