

# APPROVED

**HAROLD GARY**  
*Chairman*  
**RAYMOND COTE**  
*Vice-Chair*

## **BOARD MEMBERS**

**EMMA KOUNINE**  
**CARL GREENWOOD**  
**JOHN MOLLOY**  
**JAMES MEYER**  
**ANTHONY GIANNICO**

## **TOWN OF CARMEL** **PLANNING BOARD**



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**MICHAEL CARNAZZA**  
*Director of Codes*  
*Enforcement*

**RONALD J. GAINER, P.E.**  
*Town Engineer*

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

## **PLANNING BOARD MINUTES** **MARCH 27, 2013**

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

| <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>                                            |
|-----------------------------------|-------------------------|--------------------|--------------------|------------------------------------------------------------------------------|
| Auto Zone                         | 55.6-1-49               | 1                  | Bond Return        | Public Hearing Closed & Full<br>Return of Bond Recommended to<br>Town Board. |
| Lakeview Development at<br>Carmel | 55.9-1-17               | 1-3                | Amended Site Plan  | Public Hearing Closed.                                                       |
| Kobu Asian Bistro                 | 75.12-2-5               | 4-6                | Amended Site Plan  | Public Hearing Scheduled.                                                    |
| McGuigan, Robert                  | 65.6-1-13               | 6-8                | Amended Site Plan  | Public Hearing Waived – Planner<br>To Prepare Resolution.                    |
| Staybridge Suites                 | 55.-2-24.1              | 8                  | Re-Approval        | Re-approval Granted.                                                         |
| Minutes – 2/27/2013               |                         | 8                  |                    | Approved.                                                                    |
| Kiernan, Patrick                  | 76.17-2-10              | 8                  | Sub/Merger         | Planner to Prepare Resolution.                                               |

The meeting was adjourned at 8:47 p.m.

Respectfully submitted,

Rose Trombetta

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### **AUTO ZONE – 1831 ROUTE 6 – TM – 55.6-1-49 – PUBLIC HEARING**

Mr. Carnazza stated all comments have addressed.

Mr. Gainer read his memo which stated the original bond which is currently being held, is \$584,531.00. Based upon our inspection, all of the site improvements required pursuant to the Board's site plan approval has now been completed. On this basis, this department recommends that the entire bond be released.

Mr. Cleary had no comments.

Mr. Gary addressed the audience and asked if anyone wished to be heard.

Hearing no comments from the audience, Mr. Greenwood moved to close the public hearing. The motion was seconded Ms. Kounine with all in favor.

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

### **LAKEVIEW DEVELOPMENT AT CARMEL – ROUTE 6 – TM – 55.9-1-17 – PUBLIC HEARING**

Mr. Carnazza stated this is on for a public hearing and had no comments.

Mr. Gainer read his memo which stated any easements which exist for the existing water service which enters the site from Willow Road should be shown, including its size and material. The nearest hydrant location should be identified (on plan, or by notation). At the time the Planning Board considers the project ready for final action, following Town guidelines the Applicant will be required to execute and file with the Putnam County Clerk a "*Stormwater Control Facility Maintenance Agreement*" as specified in §156-85 to assure long-term maintenance of these treatment devices. Identify clearly that the existing 24" Drainage Pipe will be directly tied into DI#1, so as to eliminate the present rip-rapped channel.

Mr. Cleary read his memo which stated pursuant to the direction of the Planning Board, the site plan has been revised to reflect a one-way, counter-clockwise traffic flow around the rear of the building. This revised traffic pattern improves the internal vehicle flow, and minimizes conflicts at the driveway. The applicant was also directed to address fire hydrant locations and the availability of water service for firefighting concerns. As of the writing of this memo, no documentation has been submitted addressing this issue.

Mr. Joel Greenberg of Architectural Visions, representing the applicant stated at the board's request our traffic engineer changed the traffic to one-way, counter-clockwise traffic flow going around the rear of the building. He said the traffic pattern is now a lot safer. As far as the hydrants are concerned there are two fire hydrants directly opposite the proposed site on Willow Road. One is about 250 feet away and the other is about 200 feet away from the building. Our engineer has no problem with taking care of the small open area where there is a swale. He said we have revised the building design slightly to accommodate some of the comments that were brought up by the board. We also added two dumpster locations on the drawings. He said we have a permit from the NYSDOT for the ingress and egress.

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Mr. Gary addressed the audience and stated this is an open public hearing and if anyone wished to be heard.

Mr. Robert Lipton, Captain with the Carmel Fire Department addressed the board and stated we reviewed the plans and the hydrants are too far. Our recommendation to the board is a fire hydrant should be placed on the property.

Mr. Greenberg stated we have no problem with that and will put it on the final drawing.

Mr. Steve Hoffman, a resident on Willow Road asked if there was a possibility of a restaurant going in.

Mr. Greenberg stated with previous submission over three years ago there was a possibility of a restaurant. He said at this time, we are only looking at retail or office space. Right now, the answer is no.

Mr. Hoffman inquired about the electrical plan.

Mr. Greenberg stated the electrical will be underground.

Mr. Hoffman asked if there was an environmental review to check chemical or spills since it had been a nursery at one time.

Mr. Greenberg replied no.

Ms. Dini LoBue, Putnam County Legislator addressed the board and stated she was asked to come on behalf of the some of the residents. She commented on the aesthetics and said we should take a cue from the existing historic homes that line Route 6 in front of Lake Gleneida. She said this is an anchor property and feels that if the architecture is changed, it will enhance the whole area. She said it has a very commercial look to it and it should look more residential like the historic homes. She asked the board to seriously re-consider the aesthetics because it is not cohesive with the business district that currently exists. She said a lot of people are upset with the look of the building.

Ms. Ann Fanizzi, Chair to the Coalition to Preserve Open Space addressed the board and stated she is very disappointed that the developer couldn't come up with something that integrated the beauty of the lake. She said this is the focus of our community. She said you need to re-think the project and they could do better. She said this may be a commercial area but I don't think you could do whatever you want to do. She stated no one is preventing you from developing that property, but try to integrate it with the lake, bike path and residents of the area.

Mr. Herman Silman a resident of Seminary Hill Road addressed the board and stated he has lived in Carmel for 11 years and that space has been empty and desolate. He stated he knows the developer and he takes care of his properties. He said this property has been an eyesore for a very long time. I think it is a great idea that he wants to develop it economically for the Town. They have worked with the Planning Board and local residents.

Mr. John Butler a resident of Willow Road addressed the board and stated he lives directly behind the building site. He has lived there for 35 years and remembers when it was a milk company, then a lumber company and nursery. He said when it was a nursery it was only

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one story and it didn't interfere with the neighborhood. He said right now you have a beautiful view of the lake, this would destroy it. He is questioning the two stories and the look and design of the building, because it doesn't fit the architecture or aesthetics of the town at all. It is not rustic and doesn't follow the theme of Carmel at all. The fact that it is on the lakefront, it will represent and reflect the values of the town. He said he has no objection to building this site, as long as it's done properly and correctly.

Ms. Dini LoBue stated she wanted to clarify her comments regarding the historic homes. She said she was referring to the historic homes opposite Lake Gleneida, such as the Courthouse, the Belden house as well as the former Burchetta house which has been renovated. She said that would be appropriate architecture for that area. She commented that the size of the building 12,000 square feet was enormous for that location. She asked if the Architectural Review Board has reviewed the plans in terms of aesthetics.

Mr. Gary said it will be on the agenda for the planning board. He also said the lumber yard was 25,000 square feet.

At which time, a discussion ensued regarding the aesthetics of the building in comparison to the aesthetics of Bailey Court in Somers.

Mr. Boniello stated the building will be Victorian colonial in nature. It will have beveled siding and wood trim. He said the signs will be carved wood.

Ms. Fanizzi commented on smart growth principals, which is basically taking a look at vacant buildings first and to try and fill those up. She said up and down Carmel there are an enormous amount of vacant buildings. We do not need another strip mall that will be vacant.

Mr. Greenberg stated when you look at this building; it is not like a strip mall. It was modified in keeping with the area.

Mr. Giannico asked why didn't they put brick in the rear elevation to match the front.

Mr. Greenberg stated the first floor facing Route 6 is all brick and everything above that is beveled siding. We just carried the beveled siding on all four sides.

Mr. Giannico stated in his opinion if you introduce some brick in the rear it will break up the elevation. The rear does not have as much character as the front.

Mr. Boniello stated we do not have problem with that. We could put brick in the rear also.

Hearing no other comments from the audience, Ms. Kounine moved to close the public hearing. The motion was seconded by Mr. Molloy with all in favor.

Mr. Greenberg stated since the public hearing is closed, can we have a resolution for the next meeting?

Mr. Gary stated we will discuss it further and then we will let you know.

Mr. Greenberg thanked the board.

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### **KOBU ASIAN BISTRO – 903 SOUTH LAKE BLVD – TM – 75.12-2-5 – AMENDED SITE PLAN**

Mr. Carnazza read his memo which stated variances were granted by the ZBA 2/28/13 and are noted on the map.

The Outdoor dining law provides for the following:

- B. Outdoor dining permit. A permit for outdoor dining may only be issued to the owner or the tenant of a building occupied and used for the sale of cooked and prepared food, except fast-food restaurants, in a zoned district permitting such use.
- (1) Outdoor dining in conjunction with any bar or nightclub is specifically prohibited.
- (2) Said use shall be at least 50 feet from any residential lot in any adjoining residential district.
- (3) The Town of Carmel Planning Board may prohibit or limit the hours of operation of any activities which could cause an adverse impact on adjacent or nearby residential properties, such as unreasonable noise emanating from the outdoor dining area.
- (4) No exterior lighting, in excess of 0.5 footcandle, shall be permitted which would cause illumination beyond the boundaries of the property on which it is located. Hours of lighting shall be as limited by the Town of Carmel Planning Board.
- (5) Off-street parking spaces shall be provided as required for restaurants in § 156-42 of this chapter.

The Engineer must include these requirements on the site plan so the current and any future owners are aware that these conditions must be met. The numbers of seats at each of the four outdoor tables need to be included on the plan. Are they for 2 or for 4? The seating chart must be submitted as part of the site plan (signed and sealed).

Mr. Gainer read his memo which stated details of the proposed fish pond should be shown, including a construction detail of the bridge. Further, it would appear that the applicant may wish to consider combining the koi pond and rain gardens to provide fresh water to the pond, while at the same time providing an increased volume for storm water treatment and less overall site disturbance. This could be accomplished by increasing the size of the Koi pond. Further, the source of water to maintain the pond should be specified. If the applicant is proposing a fresh water fill to the fish pond from the potable water supply, an air gap or RPZ device must be provided. Embedment details, as well as greater overall detail (pipe diameter, etc.) and an engineering assessment of the waterfront railing should be provided. It is likely that patrons will lean against this rail and therefore it is imperative that the design and construction take this into account, given the drop off to Lake Mahopac. Provide the normal water surface elevation (spillway elevation) of Lake Mahopac, and that of the intended exterior concrete deck. (See note Number 5). Further, appropriate construction details should be provided for the exterior steps shown in the northwest corner of the property, adjacent to the lake. A detail of all proposed exterior lighting must be provided, as well as a lighting spill plan. If any change is anticipated in expected patrons and/or staffing at the site due to the larger restaurant area and seating, which would increase water usage or wastewater generation from the premises, should be specified on plan. Otherwise, no change in occupancy/seating/use should be specified by notation.

Mr. Cleary read his memo which stated the applicant was last before the Planning Board in December of 2012, at which time the application was referred to the ZBA and ECB. The required minimum lot width and parking space size variances were granted by the ZBA on February 28, 2013. The applicant appeared before the ECB on January 17, 2013, at which time, the ECB requested several revisions to the plan, including:

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- The addition of sewer and water connections.
- The addition of rain gardens to address stormwater runoff from the new roof surfaces.
- The addition of the electrical line connection for the lights in the wall.
- The addition of details for the stairwell, underground storage structure and wall.
- Details have been provided for the koi pond.
- Topography has been updated.
- Test pit ground water level results were provided.

The applicant has also provided responses to the Engineering Department's review comments. All site planning issues have been satisfactorily addressed. It is recommended that the public hearing on this application be scheduled.

Mr. John Karell, Applicant's Engineer addressed the board and stated we have updated the survey with the correct parking spaces. He said we have 56 parking spaces, which equals to 168 seats. We had indicated 141 seats, but we will modify the plan to reflect the maximum number seats we could have based on the parking.

Mr. Molloy addressed the board and stated his biggest concern was safety. At which time he proceeded to describe the traffic flow of the parking lot to the board members. He also stated he went to dinner about 3 weeks ago and on the restaurant side he watched as two tables and chairs were brought out into the aisle, leading to the main exit to accommodate more people. He said the tables on the hibachi side had 8 to 10 chairs at each table. The seating plan shows six. He said until the Town comes up with parking, we have a very dangerous situation. Something needs to be done with the diagonal spaces along the building (South Side).

At which time, Mr. Molloy displayed the plan that was denied to the Zoning Board. He said the sushi bar shows 12 bottles of alcohol on the shelf. He said if this is a bar it needs to be a different application. We need to pin them down on the seats and pin them down on the traffic flow.

Mr. Gary stated this board has changed that traffic at least seven times over the years. He said the only thing we haven't had is a traffic engineer hired by the board to look at the traffic flow. Maybe that is something we should look at.

Mr. Cote agreed with Mr. Molloy. He said his concern is also the traffic flow and the ability to park safely. He stated he has also made the same observation at the hibachi tables, so I think we need to address that and get actual seating charts to reflect what's in place.

Mr. Karell stated the seating plan that was submitted shows 7 seats per hibachi table, which amounts to 141 total seats. If you have 8 seats that's 150 total seats and 9 seats per table is 159 seats. He said we have 168 seats based on the parking spaces. As far as the traffic flow that has been approved and is existing.

Mr. Gary asked if the angled parking on the side of the building were counted in the restaurants parking.

Mr. Karell stated yes, they are included.

Mr. Molloy stated the plans that were denied to the Zoning Board showed 98 seats in the restaurant. When you went to the Zoning Board there were 132 seats with 6 around the

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hibachi table. When you went to the ECB you were up to 7 seats around each hibachi table. We need to pin it down to the right number.

Mr. Karell stated he will change the plan to indicated 168 seats to reflect the parking spaces.

Mr. Molloy stated if the applicant has enough seats to match the parking and the parking is accessible and the driving in the parking lot is safe, that's great, but let's get to that point.

Mr. Karell said okay.

Mr. Craig Baumgartner, Attorney for the applicant addressed the board the letter from Bart Lansky Law Group dated March 21, 2013 had a number of issues regarding the outdoor dining permit and other issues on the site. We will formally respond to those issues in writing. He said at this point we would like to get the project scheduled for a public hearing.

Mr. Greenwood stated there is another lot adjacent to this, where a lot of traffic enters this site. He said I do not have an issue with doing a traffic study, but it would difficult to do it with only one property.

Mr. Cleary stated you would have to do it with both properties.

Mr. Gary asked Mr. Cleary if he had any suggestions.

Mr. Cleary said I don't think our traffic engineer would have an issue studying the traffic flow and maneuverability. He would not require access to the properties, he could look over the fence, but if there are any solutions that require the cooperation of an adjacent property owner, we would have to seek permission to do re-striping, re-allocation and re-adjusting the traffic flow. He said if it is the right solution for the site they would be benefiting and presumably they would want to cooperate to improve the traffic flow and make it safe.

Mr. Molloy stated his tenants would probably insist on it. It's dangerous!

Mr. Gary stated to Mr. Karell to sit with the Town Engineer and come up with what should be done there.

Mr. Karell stated he will meet with the Town Engineer.

Mr. Gary said to schedule a public hearing.

## **MCGUIGAN, ROBERT – 1090 ROUTE 6 – TM – 65.6-1-13 – AMENDED SITE PLAN**

Mr. Carnazza read his memo which stated provide a detail of the dumpster enclosure. Provide the floor plans with the site plan. It is impossible to check calculations without it. The "required" variances were granted by the ZBA 7/24/2003. Parking space 1 and the freestanding sign are off the property on the Rt. 6 R.O.W. Approval required from the NYSDOT. If the parking spaces can be restriped on the applicant's property, approval from NYSDOT will not be required.

Mr. Gainer had no comments.

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Mr. Cleary read his memo which stated Clarify the purpose for the building expansion. Is this space to be used for an existing tenant, or is this speculative space? A floor plan is required to verify the distribution of office/retail/storage space within the building. Subject to confirmation by the Director of Code Enforcement, it appears that variances will be required for minimum lot depth and minimum floor area. The site requires the provision of 10 off-street parking spaces. 11 spaces are proposed. A portion of the existing parking lot encroaches into the Route 6 right-of-way. Email correspondence from the NYSDOT was included with the site plan application, indicating that a permit would not be required from the DOT for this minor encroachment. In the DOT correspondence, concern was expressed about the location of the existing sign at the driveway (because it impacts site distances). The site plan calls for relocating the sign approximately 10' back off the curb line. How is refuse disposed of at this site? A dumpster or refuse enclosure is not present on the site. Will one be required to accommodate the expanded use of the building? If so, its location should be indicated on the site plan. What is the "gravel area" used for on the east side of the building? It appears to connect to the neighboring parking lot. The site plan indicates that an existing stormwater treatment system is present below the parking lot. The adequacy of this system must be evaluated by the Town Engineer. Will the expansion of the building require any upgrades to the site's utility infrastructure? Are the 3 large trees in the lawn area at the front of the site located within the site's property boundary, or within the DOT right-of-way? If in the ROW, what assurance exists that these trees will remain?

Mr. Karell stated the applicant is finishing the second floor story of the building. We are not proposing to do anything but re-stripe the parking area. The applicant is intending to use the space for professional office space. At this time, we are requesting that the board waive the public hearing.

Mr. Cote asked with the new use of the second floor how does that affect the parking?

Mr. Karell stated we have sufficient parking based on the square footage as retail or office.

Ms. Kounine stated basically there are no changes except you are finishing the second story and we are assuming the parking spaces are sufficient for what you want to do.

Mr. Gary stated he is concerned with not having enough parking spaces.

Ms. Kounine stated half of the property is empty and wooded, so if a few more spots were needed, he could clear it out and make the spots.

Mr. Gary stated it is up to the board to waive the public hearing.

Mr. Greenwood stated the location of the dumpster enclosure is a requirement of the site plan.

Mr. Cleary stated if you provide a dumpster it's a requirement of the site plan. He can elect to put his garbage in cans if he chooses to and keep them in an enclosure inside the building. He is only required to show the dumpster enclosure if he has a dumpster.

Mr. Karell stated there will not be a dumpster outside. It's a small building.

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

Mr. Gary asked the Planner to prepare a resolution.

### **STAYBRIDGE SUITES (JARAL PROPERTIES) – G & F SUBDIVISION – LOT 1 – ROUTE 6 TM – 55.-2-24.1 – RE-APPROVAL OF SITE PLAN APPROVAL**

Mr. Carnazza had no comments.

Mr. Gainer read his memo which stated we have no objection to the re-approval by the Planning Board for this project. Given the period which has transpired since the original approval was granted, we recommend that the bonding and engineering fees be increased to Performance Bond – increase to \$1,510,000 and Engineering Fee - increase to \$75,500.00.

Mr. Cleary read his memo which stated as permitted by the code, a one-year extension of their approval was granted on March 21, 2012. That extension has subsequently expired. The applicant is seeking a second re-approval of the site plan. No changes to the plan are proposed.

Ms. Kounine asked if the applicant accepts the increase in bond and engineering fees.

Mr. Zack Pearson of Insite Engineering, representing the applicant stated he had no objection to the increases.

Mr. Greenwood moved to grant re-approval of site plan for a period of one year with the modified bond and engineering fees. The motion was seconded by Mr. Molloy with all in favor.

### **MINUTES – 2/27/2013**

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

### **KIERNAN, PATRICK – 24 TEAKETTLE SPOUT ROAD – TM – 76.17-2-10 – SUBDIVISION/MERGER**

Mr. Carnazza had no comments.

Mr. Gainer had no comments.

Mr. Cleary addressed the board and stated you have been advised by the Planning Board's Attorney with respect to the procedure moving forward.

Mr. Gary stated he would like to go into Executive Session with regards to Kiernan.

Ms. Kounine moved to go into Executive Session for potential litigation at 8:25 p.m. The motion was seconded by Mr. Greenwood with all in favor.

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Ms. Kounine moved to come out of Executive Session at 8:45 pm. The motion was seconded by Mr. Greenwood with all in favor.

Mr. Greenwood moved to adjourn the meeting at 8:47 p.m. The motion was seconded by Ms. Kounine with all in favor.

Respectfully submitted,

Rose Trombetta