

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



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

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 **JANUARY 23, 2013**

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

ABSENT: EMMA KOUNINE

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
Steiber & Coviello	43.-1-49,50.1	1	Public Hearing	Public Hearing Closed. Planner To Prepare Resolution.
Baldwin Estates	75.19-1-1.11	1	Public Hearing	Public Hearing Closed. Bond Reduction Recommended To Town Board
Hillcrest Commons	44.10-1-4	1-2	Public Hearing	Public Hearing Closed. Bond Reduction Recommended to Town Board
Szysh, Ronald & Carol	43.-1-15,16	2-3	Sketch Plan	Denied to ZBA.
Kiernan, Patrick & Frank	76.17-2-10	3-5	Sketch Plan	No Board Action.
Minutes – 12/19/2012		5		Heldover.

The meeting was adjourned at 7:52 p.m.

Respectfully submitted,

Rose Trombetta

STEIBER & COVIELLO – 5 & 9 CAUSEWAY PARK – TM – 43.-1-49,50.1,50.2 – PUBLIC HEARING

Mr. Carnazza had no comments.

Mr. Gainer had no comments.

Mr. Cleary had no comments.

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

Mr. Gary asked the Planner to prepare resolution.

BALDWIN ESTATES – RYAN COURT – TM – 75.19-1-1.11 – PUBLIC HEARING

Mr. Carnazza had no comments.

Mr. Cleary read Mr. Gainer's memo which stated the original bond amount for the project was set at \$235,830.00. At this time, the top course of asphalt pavement on the project roadways was completed this past November. All other public improvements specified on the approved construction drawings had been completed previously. Further, an "as-built" survey of the project roadway has been received from the applicant. All work has been inspected and has been installed in accordance with the approved subdivision plat. Pursuant to the Subdivision Regulations, bonds may not be reduced to below 10% of the original bond amount, which is to be held for one year after completion of construction. Based upon the above, it is recommended that the bond be reduced to \$23,583.00 (10% of the original amount). This amount should be retained as maintenance bond security for a period of one year.

Mr. Cleary had no comments.

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

Mr. Greenwood moved to recommend bond reduction to Town Board. The motion was seconded by Mr. Molloy with all in favor.

HILLCREST COMMONS – ROUTE 52 – TM – 44.10-2-4 – PUBLIC HEARING

Mr. Carnazza had no comments.

Mr. Cleary read Mr. Gainer's memo which stated the original bond amount posted, which is currently being held, is \$1,956,725.00. In support of the applicant's request, the design engineer has provided a summary of work remaining incomplete at this time, which we take no exception to. The cost to complete the bonded work, as

estimated by the developer's representative, is \$729,788.00. However we are concerned that damage to the present roadway serving the project could be caused by the contractor's heavy equipment during the subsequent development of Lot 2 of the project. To allow a further factor of safety to assure that sufficient monies are retained to complete all bonded site improvements and any remedial work that may be found necessary to the existing roadway, we recommend that the Board retain a bond in the amount of \$770,000.00.

Mr. Cleary had no comments.

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

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

SZYSH, RONALD & CAROL – 54 CAROLAN ROAD E. – TM – 43.-1-15,16 – SKETCH PLAN

Mr. Carnazza read his memo which stated The applicant proposes to realign 2 existing lots off Carolan Rd. The lots were re-aligned as requested by the Board, however, I think the lots were much better quality lots the way they were proposed in the previous submission. Variances were required for both lots before and only one now but you now have one lot that is a lot more non-conforming as opposed to two lots that were slightly non-conforming. 280A variance was granted by the ZBA 4/22/72.

Mr. Gainer had no comments.

Mr. Cleary read his memo which stated at the last Planning Board meeting, the Board directed the applicant to revise the subdivision plan, so that instead of "splitting the difference" between the two non-conforming lots, one lot be designed to fully conform to the zoning dimensional requirements, resulting in only one non-conforming lot. The applicant has revised the subdivision plan accordingly. The northerly lot (43.-1-16) is now 120,000, which complies with the minimum lot area. The southern lot (43.-1-15) is 70,680 square feet, which is non-compliant.

Should the Board find the revised plan satisfactory; a referral can be made to the ZBA.

Mr. Gary stated one lot is conforming and the other is non-conforming, which is what we asked them to do.

Mr. Greenwood said I think it achieves what we asked for, which is basically having the same situation that exists now, having one lot conforming and the other lot non-conforming and not ending up with two non-conforming lots.

Mr. Gary asked Mr. Carnazza why he didn't like it this way.

Mr. Carnazza stated when it comes to planning, I believe the squarer you could make the lots, the better off you are.

Mr. Cleary said if the septic system was moved, and it was a straight line across, it would be a much better configuration.

Mr. Gary asked if they attempted to look at that.

Mr. Rob Cameron of Putnam Engineering, representing the applicant stated yes we did, but we couldn't do it because of where the septic is, which includes the tank and fields.

Mr. Molloy stated he agreed with Building Inspector, he liked the first proposal as opposed to the second proposal.

Mr. Gary stated the first thing they tell you when you come on the planning board is compliance. He said we have one of two ways to do this, either we make one conforming and one non-conforming or eliminate one lot and make one lot in totality. That's what we would do if we were going with planning. I am not against making the two lots non-conforming, but you are not doing "planning".

Mr. Carnazza stated since there are two existing houses on the lots already and they are not proposing to build more houses, in my opinion I would rather see two non-conforming lots.

At which time, the board members continued to discuss whether to have one or two non-conforming lots and which proposal to with.

Mr. Greenwood moved to deny the January 10, 2013 drawing to the ZBA. The motion was seconded by Mr. Cote.

A roll call vote was taken as follows:

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

Motion carries.

KIERNAN, PATRICK & FRANK - 24 TEAKETTLE SPOUT ROAD - TM - 76.17-2-10 - SKETCH PLAN

Mr. Carnazza read his memo which stated the property is one lot that has a one family house and a detached garage. The garage was converted to an apartment without any permits and the applicant thought this would be the best way to legalize the non-conformity. The other option would be to seek several variances and attempt to make a legal accessory apartment but the necessary variances would be numerous. Variance is required for lot area 120,000 s.f. required, (Lot A) 41,179 s.f. and (Lot 2) 33,959 s.f. are provided. (Lot A) 78,821 s.f. and (Lot 2) 86,041 s.f. variances required. Variance is required for lot width, 200 ft. required, (Lot 1) 118.44 ft. and (Lot 2) 121.84 ft. are provided. (Lot 1) 81.56 ft and (Lot 2) 78.16 ft. variances required. Variance is required for front yard setback for Lot A. 40 ft required, 37.3 ft provided, 2.7 ft variance for lot A (The setback is measured to the house, not to the window. The code allows for windows to extend within the setback).

Mr. Gainer had no comments.

Mr. Cleary read his memo which stated the proposed lot line adjustment creates an unusually configured bulge along the common lot line between Lots A & B. Ideally, lot lines should reflect straight courses and bearings. Unusual configurations should be avoided wherever possible. Do both lots exist today as legal non-conforming properties? If both lots exist today as *legal* non-conforming parcels, the reason for the proposed lot line adjustment should be documented. It is unclear if the subsurface sewage treatment system serving Lot B currently exists. If not, and a new system is proposed, subsurface soil details must be provided, and review by the Town Engineer is required. Two separate driveways serve the two lots, however, the driveways are internally connected. Is there any reason for the internal connection? If not, it should be removed. If it is the desire of the applicant to maintain this connection, cross easements must be filed to allow for the join access. Review by the Director of Code Enforcement is required to determine if any variances are required.

Mr. Gary asked Mr. Carnazza to explain what the applicant was trying to do.

Mr. Carnazza said he has an existing one lot with a house and a garage. The garage has an apartment above, so by creating the lot line, they are making a second house and two separate lots to legalize it.

Mr. Molloy questioned if the two houses were on one lot.

Mr. Carnazza said that's correct, right now they are on one lot.

Mr. Molloy asked by creating the other lot would both lots be conforming?

Mr. Carnazza stated neither lot would be fully conforming. They have one lot with two houses on it, which is non-conforming. By putting the lot line they are making two conforming uses, but non-conforming lots. He said the house and garage was converted into an apartment without any approvals.

Mr. Gary asked if he moved the line, would it make it conforming.

Mr. Carnazza said no.

Mr. Gary asked Mr. Cleary what his thoughts were.

Mr. Cleary said from his view, it should be a straight line and tell the zoning board from a planning perspective, it's preferable and should try to give him a variance.

Mr. Greenwood stated he had a problem with the whole concept. You have one lot and now you want to create two non-conforming lots.

Mr. Cleary stated the applicant has been violated for this and is in court. The only way he could correct this is by trying to do this, whether he achieves it or not or remove the building.

Mr. Molloy asked the applicant how long has he owned the property.

Mr. Kiernan said since 1973.

Mr. Greenwood asked how long has the garage with the apartment been there.

Mr. Kiernan stated the garage since 1981 and the apartment has been there since 1983.

Mr. Molloy asked if he had gotten a permit then would it have been a legal structure with the apartment.

Mr. Carnazza said you weren't allowed to do apartments back then. The apartment law came into effect sometime in 1998.

Mr. Greenwood stated in his opinion the owner created his own issue.

Mr. Molloy stated since the applicant has a lot that is more than 120,000 square feet and what is illegal is the apartment, if he removes the apartment he could keep going the way it is with a house and garage on a conforming lot. If we approve two non-conforming lots, there is nothing preventing the applicant from knocking down the garage with the apartment and building a single family house on that lot.

Mr. Cleary stated that is what the court will require him to do if this or the other alternative fails. The court will compel him to remove the second dwelling. The garage with the apartment will be converted back to a garage.

Mr. Molloy stated but our approval would give him the right to remove it and replace it with a single family dwelling.

Mr. Greenwood stated I would much rather see him go in front of the zoning board and get denied by them if that's what they choose to do and then come back here as a last alternative versus us making the decision.

Mr. Gary asked if the planning board attorney was involved in this court case.

Mr. Carnazza answered yes, he represents me.

Mr. Gary stated I think we need the planning board attorney for an executive session to explain to us what is going on.

The board members agreed with the Chairman.

MINUTES – 12/19/2012

Heldover.

Mr. Greenwood moved to adjourn the meeting at 7:52 p.m. The motion was seconded by Mr. Molloy with all in favor.

Respectfully submitted,

Rose Trombetta