

APPROVED

HAROLD GARY
Chairman
RAYMOND COTE
Vice-Chair

BOARD MEMBERS

CARL GREENWOOD
JOHN MOLLOY
JAMES MEYER
ANTHONY GIANNICO

TOWN OF CARMEL **PLANNING BOARD**



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Director of Codes
Enforcement

RONALD J. GAINER, P.E.
Town Engineer

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

PLANNING BOARD MINUTES **DECEMBER 19, 2012**

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

ABSENT: ANTHONY GIANNICO

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
Hillcrest Commons	44.10-2-4.2	1	Public Hearing	Public Hearing Closed – Planner To Prepare Resolution.
Kobu Asian Bistro	75.12-2-5	2	Amended Site Plan	Denied to ZBA and Referred to ECB.
NYCDEP – Carmel Field Headquarters	54.-1-30	3-4	Site Plan	No Board Action.
NYCDEP – Mahopac Inspector's Office	65.17-1-41	4-5	Site Plan	No Board Action.
Carmel Centre Senior Housing (Pulte Homes) Lots 3 & 5	55.14-1-11.1 & 55.14-1-11.3	5-7	Amended Site Plan	No Board Action.
Monzon, Lynne	76.6-1-30	8-9	Regrading Plan	Referred to the ECB.
Hillside Court	55.6-1-51	9	Re-Approval	1 Year Extension Granted.
Old Forge Estates	75.15-1-19-40	9	Extension	Two 90 Days Extension Granted.
ASA Petroleum Co., Inc.	44.17-1-45	9-10	Extension	3 Month Extension Granted.
Upper Lake Subdivision	42.-1-57	10	Extension	6 Month Extension Granted.
Minutes – 11/28/2012		10		Approved.

The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Rose Trombetta

HILLCREST COMMONS – Lot E-2.2 – ROUTE 52 – TM – 44.10-2-4.2 – PUBLIC HEARING

The consultants had no comments.

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

Mr. Don Hall a resident of Mahopac addressed the board and asked if anyone on the planning board has driven the emergency exit road yet.

Mr. Gary stated he was there in the early spring.

Mr. Hall stated in his opinion the emergency exit road is no more than a cow path and it is a danger. He said there is a problem with the number of people there now; if you develop more it would be twice the problem. He said the whole project was a disaster when it was approved and it should not be expanded.

Mr. Jeff Contelmo of Insite Engineering, representing the applicant stated the primary access to the facilities is a proposed town road which extends from Route 52 to a cul-de-sac and from there a paved driveway. He said the emergency access road is a gravel driveway which was put in place for emergency conditions if the main or secondary roadways were blocked. He said it is closed off to normal traffic and will only be opened in an emergency.

Mr. John Bainlardi of Wilder Balter Partners addressed the audience and stated the project consists of 150 units of residential apartments. It is divided into 2 lots. The first lot is completed and occupied. The access road out onto Route 52 has been completed and the entire infrastructure to support the first lot. He said what is part of the public hearing is the approved lot 2 which was approved for 74 units in a 4 building configuration with a pool and clubhouse. He said the proposal is to retain the same amount of units in 3 buildings, eliminating one. The pool will remain and the recreational space is proposed on the 1st floor of the southern most building, adjacent to the pool area. He said it does not call for more than the 74 units that were originally approved.

Ms. Barbara Prastaski a resident of Hillcrest and real estate agent addressed the board and commented on the need for this type of housing for seniors. She said there is so little for people that do not qualify for public assistance. She said this is a Godsend and it should be approved. I would be proud to recommend it to anybody.

Ms. Pamela Rahilly another resident of Hillcrest stated she appreciates the management. They take care of us like family and it is a nice place to live and hopes it is approved.

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

Mr. Gary asked the Planner to prepare a resolution.

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

Mr. Carnazza read his memo which stated the applicant proposes to add an outdoor “Sushi Bar”, a concrete deck (dining area), a fish pond and an underground storage area (below the deck) to the existing restaurant. This is a permitted use in the commercial zoning district. This project must be referred to the ECB for comments. Variances Lot width, 200 ft. required, 175 ft. proposed, 25 ft. variance needed. Building area, 5000 s.f. req’d, 3900 s.f. provided, 1100 s.f. variance needed. Parking space width, 10 ft. required, 9 ft. provided, 1 ft. variance needed.

Mr. Gainer read his memo dated December 18, 2012.

Mr. Cleary read his memo which stated the site plan has been revised to correctly identify the zoning district. The use of the patio will not result in an increase in seating for the restaurant. When the patio is used it will accommodate 4 tables. In order to provide access to the patio, 4 tables within the restaurant would be removed, resulting in no net change in seating capacity. The restaurant accommodates a seating capacity for 98 patrons, resulting in an off-street parking requirement of 33 spaces. 48 spaces are provided. As a result, the off-street parking requirement is complied with. The new patio has been designed to meet all applicable egress and access requirements. Direct, at-grade access to the rear yard is provided from the patio through two openings in the wall along the patio’s edge. No changes to the operational characteristics of the restaurant are required or are proposed, as a result of the installation of the patio. Exterior lighting is proposed through the use of recessed lighting in the patio ceiling. Outdoor entertainment, and/or an outdoor sound system are not proposed. No cooking is proposed on the patio. No trees would be removed to allow for the fish pond, which is a decorative feature only, and provides no stormwater function. The area between the patio and Lake Mahopac will be restored and seeded. It is noted that some decorative plants may be provided. If so, they should be identified on the site plan.

Mr. Jack Karell, Engineer representing the applicant stated it is an existing restaurant and the applicant would like to build a small patio on the lake side. The remaining area between the patio and the lake will be restored to its pre-existing condition (lawn). Everything else will stay the same.

Mr. Gary asked what type of deck will it be.

Mr. Karell answered it will be a stone concrete deck.

Mr. Molloy asked if the grade of the patio will be even with the grade of the floor of the restaurant.

Mr. Karell replied yes, it will be one flat area.

Mr. Cote moved to refer to the ECB. The motion was seconded by Mr. Greenwood with all in favor.

Mr. Greenwood moved to deny to the ZBA. The motion was seconded by Meyer with all in favor.

NYCDEP – CARMEL FIELD HEADQUARTERS – 4 BELDEN ROAD – TM 54.-1-30 – SITE PLAN

Mr. Carnazza had no comments.

Mr. Gainer read his memo which stated this project last came before the Board last spring, which concerns limited site improvements to their existing facilities on the above referenced site. A public hearing still remains to be scheduled on the matter. While some plan refinements were accomplished on this latest plans, the following information still remains to be addressed: A driveway profile must be provided. The plans should specify the area of overall site disturbance planned, as well as the amount of new impervious area which will be created. This will allow determination of the extent of details necessary to comply with applicable SWPPP requirements. The applicant should provide a specification for “Crushed Stone Pavement”, to properly identify the material. Further, given the apparent grade of the proposed “crushed stone” driveway, the applicant should consider a more suitable measure other than an earth berm to redirect stormwater away from the existing shed. Erosion control measures should be provided downgradient of proposed construction activities, along with details of same. Stormwater management plans must be provided, along with appropriate details. A Town of Carmel Highway Department Work Permit is required for the site access proposed. Property lines must be shown. The applicant’s engineer should provide a construction cost estimate for the work proposed, so that bonding and inspection fees can be established.

Mr. Cleary stated the primary issues that were raised by the board when this application was last before you related to how the upper storage yard was to be used. The site plan now notes that tractors, sanders, plows and mowing equipment will be stored in this area. The new parking area on the south side of the site will be paved, while the driveway and upper storage area will be gravel. The primary issues associated with this are what the Town Engineer raised. They are proposing a steep gravel drive to connect the front portion of the property up to the storage yard in the back. Typically, we would look for improvements that are somewhat different than what the DEP has proposed. As Mr. Gainer indicated, with additional information a full engineering review could be done.

Mr. Cote asked if there was a discussion regarding paving part of it.

Mr. Cleary stated that’s correct. There is a new paved parking lot provided on the left side and on the right side is the gravel drive.

Mr. Carnazza stated there was a discussion regarding maintaining the water that would run down.

Mr. Gainer said that was a concern that was raised.

Mr. Gary asked it has been answered.

Mr. Gainer replied no, it still remains to be resolved. He said we could directly with the design engineer to resolve these concerns.

Mr. Cleary stated the next step is a public hearing.

Mr. Gainer stated we could meet informally before a public hearing is scheduled to resolve all the technical concerns.

Mr. Gary stated to Mr. O'Connor to meet with the town engineer.

Mr. O'Connor said that's fine.

**NYCDEP – MAHOPAC INSPECTOR'S OFFICE – 35 MUD POND ROAD – TM – 65.17-1-41
SITE PLAN**

Mr. Carnazza had no comments.

Mr. Gainer stated this project is in a similar state as the one just reviewed. There are some technical issues that still need to be resolved. The twelve foot driveway shown is not a sufficient width for two way traffic (as the direction arrows indicate). Stormwater management plans must be provided along with details. The plans should specify the area of overall site disturbance planned, as well as the amount of new impervious area which will be created. This will allow determination of the extent of details necessary to comply with applicable SWPPP requirements. Erosion control measures should be provided down gradient of proposed construction activities, along with details of same. The applicant should provide a specification for "Crushed Stone Pavement", to properly identify the material. Because construction activities are proposed within the buffer of NYSDEC wetlands LC- 32, permits from NYS DEC-Region 3 and the ECB must be obtained. The applicant's engineer should provide a construction cost estimate for the work proposed, so that bonding and inspection fees can be established.

Mr. Cleary read his memo which stated in April of this year, the NYCDEP submitted a site plan application involving the construction of a new asphalt driveway from the site entrance to the office, and the resurfacing of approximately 15,100 square feet of gravel with new crushed stone. The site plan has been revised to meet the requirements of §156-61. The proposed parking lot improvements are located within the wetland buffer. A wetland permit is therefore required from the ECB.

Mr. Gary advised Mr. O'Connor to meet with the town engineer.

Mr. O'Connor stated they have a DEC permit for the wetland.

Mr. Gainer stated any permits should be given to the planning board for their records.

Mr. Molloy asked Mr. Gainer if the issues raised tonight are new since the applicant first appeared in front of the board.

Mr. Gainer stated the only new is the bonding and fees to be paid.

Mr. Molloy stated if these issues haven't been addressed since the last meeting, which was about 6 months ago, coming back here is like a memory test. I don't think that's right.

Mr. O'Connor stated he doesn't remember getting a memo from Mr. Gainer.

Mr. Gainer stated having them resolve these issues is not a significant effort on the applicant's part; it's just a matter of addressing them with revised plans.

Mr. Gary clarified that having a public hearing in February comes with a condition. He said we will ask the town engineer if all the issues have been addressed. If he says yes, we will schedule a public hearing.

CARMEL CENTRE SENIOR HOUSING (PULTE HOMES) – LOTS 3 & 5 – TERRACE DRIVE – TM – 55.14-1-11.1,11.3 – AMENDED SITE PLAN

Mr. Carnazza stated the applicant has an updated map to show all the changes and is looking forward to a presentation by the applicant before I do a full review.

Mr. Gainer stated he had no new technical comments. The intent of tonight's meeting is to have the applicant respond to prior concerns raised over the conservation areas originally identified on the approved site plans. They have made a formal submittal and hopefully they will explain to the board how it occurred and what they are proposing to do to make enhancements in those areas that have been impacted.

Mr. Cleary stated you have a memorandum that addresses a number of requested clarifications. This is a complicated project to compare and contrast to what's been built, to what was approved. That is what the applicant is trying to do. I have a number of suggestions on how to clarify some of the information that is being provided to you. Hopefully, it has been built into the presentation you will be hearing this evening.

Mr. Paul Lynch of Putnam Engineering, representing the applicant stated they are in front of the board to discuss landscape issues that have brought up. One chart is a summary of various correspondence that's been received by the Town. The first drawing shows the landscape plan, sheet L-150. This plan was included in all the site plan submissions for the 2005, 2006 approvals, as well as the 2008 amended site plan approvals. The chart is broken down to show the tree preservation conservation areas, #'s 1-24. The landscape architect had shaded 24 areas on the drawing and called them tree preservation areas/conservation areas. He stated the Town wetland inspector; David Klotzle had identified concerns, in areas 17 through 23 and the ADHOC landscape committee, in their three different correspondences identified areas, 8 through 11, as well as 13, 15, 16, 24.

At which time Mr. Lynch displayed a blowup of the landscape plan with color, which shows lot 3. He said looking at the summary chart; areas 8, 9, 10 and 11 are on lot 3. What we have done on the landscape plan is we overlaid the construction drawings, the grading plan and what infrastructure had to be installed. He said the area between 8 and 9 was cleared to install the water main that connects North Gate Road to Walker Drive as part of our approved site plan drawing. Clearly, we had to install the water, but the landscape plan didn't pick up on it. Area #10 was the grading for the pond that had been installed and where the fill section has been. Basically, what is left in area 10 has been left undisturbed outside of what was needed to do as part of the construction process. He said area #11 which is shown of the landscape plan is actually located in the fill section to construct the road. The grading plan had always shown this area to be filled in. It just wasn't shown by the landscape architect.

At which time, Mr. Lynch proceeded to discuss the disturbances of preservation areas on lot 5.

Mr. Molloy asked you took the area that was cleared and restored to the way it looked before or you cleared it to accommodate your machinery and fill.

Mr. Lynch stated it was restored to a lawn area, but when you look at the Tim Miller landscape plan, it shows it being a preserved tree area which was incorrect. It should not have been shown that way on the drawing.

Mr. Molloy said was in incorrect on the plan or was it incorrect to clear it.

Mr. Lynch said it was incorrect on the landscape plan.

Mr. Lynch proceeded to display the landscape plan for lot 4, areas 15 through 21 and 24. He said basically, there is nothing different from what is out there today and what's shown on the drawing.

Mr. Cote asked if at any time did they confer with Tim Miller before their plans were done, because it seems a little disingenuous to come here now. I have a problem with that.

Mr. Lynch stated I don't have a good answer for you.

Mr. Gainer stated for my understanding as part of the whole set of construction plans that were submitted for approval by the board, you always included this landscape plan. Was it ever updated?

Mr. Lynch stated there was an update done in 2008, but it didn't pick up the work that was done. There was a conflict.

Mr. Gary stated what happened was when it was drawn you couldn't adhere to it during construction. You couldn't adhere to those plans to make it work.

Mr. Lynch stated we did adhere to the plans.

Mr. Greenwood clarified that the actual construction plans drawings and the site plan don't comply with what you presented as a landscape plan. What they built was what they originally designed. What they presented to us is a landscape plan that does not conform with what they were actually constructing, and I have a problem with that.

Mr. Gary asked Mr. Cleary for some more clarification.

Mr. Cleary stated they presented a subdivision that included improvements. Years later there was a landscape plan that was prepared to address certain issues that didn't correspond to the subdivision plan and that is what Mr. Lynch is trying to describe to the board, the differences between the two. He said there is a third piece to this, which is what was actually constructed in the field, the original subdivision and the landscape plan that was approved and what was actually installed. What the applicant is trying to tell the board is that they didn't do anything wrong, they built what they were supposed to build.

Mr. Gainer stated we are at the point where we identified deficiencies, so for me essentially is what you are going to do to enhance that. To get back some trust with the board in terms of what you could offer.

Mr. Molloy asked why didn't you come back to this board with amended landscape plan when the field conditions didn't allow you to build according to the plan. He said the area on Terrace

Drive, which was cleared to store equipment and stock pile material (which was done in 2005), why didn't you plant some trees. That was seven years ago!

Mr. Lynch stated as part of our current amended site plan we do show landscaping in those areas. It is part of the plans that have been submitted, but not fully reviewed because of the issues of what has been done. He said in the new landscaping plan we show re-vegetating the area with trees, though lot 4 is not part of this amended site plan application of lots 3 and 5. The applicant has been in discussion with the residents to work on proposing a landscaping plan that both could live with. Our amended site plan does show these issues. We are making amends to fix with we can.

At which time, a further discussion ensued regarding the landscaping issues.

Mr. Greenwood stated I would like to see what is being done to correct issues with your own drawings, what is actually built and what you are going to preserve or re-instate as far as preservation areas. I would like to see that done first, before any amendments to lots 3 and 5.

Mr. Carnazza asked are you asking them to physical plant the trees or what the mitigation is before they get the approvals to do less buildings.

Mr. Lynch stated the revised landscape plan is part of the application for lots 3 and 5.

Mr. Gary stated why can't they show us what they want to do with reducing the housing and the landscape issues and present it to us in one package.

Mr. Cleary stated I think it should be in one package.

Mr. Mullen agreed with the Chairman.

Mr. Lynch stated so we could leave this correspondence behind us and move forward.

Mr. Charbonneau stated the board is looking for a presentation as to what you plan on doing.

Mr. Cote asked if the applicant could show the ADHOC committee what they are doing once the plans are available.

Mr. Mullen replied yes.

Mr. Charbonneau stated I also think it would go a long way towards clearing up a public hearing, since the residents will have those questions.

Mr. Gary clarified what the board was looking for. What they are going to do to correct any violations and concerns that this board has on the whole site plan presented. Everything needs to be shown, and if we don't like it we will tell you.

Mr. Mullen stated that's fine with us.

MONZON, LYNNE – 21 M & M LANE – TM – 76.6-1-30 – REGRADING PLAN

Mr. Carnazza stated all his zoning comments have been addressed.

Mr. Gainer read his memo which stated a Town of Carmel Freshwater Wetland permit is required, and so referral to the ECB should be accomplished as part of the Board's review of this application. A SWPPP, comprising an Erosion Control Plan, is required. Based upon a quantity estimate previously provided by the applicant's consultant, a performance bond of \$107,000 should be posted, and an inspection fee of \$5,350.00 should be paid. The following notation should be added to the Site Plan, and incorporated into any approval resolution - Prior to the initiation of construction the applicant or his representative will meet with the design engineer, Town Engineer, Highway Superintendent, Building Inspector, Site Contractor, and/or any additional outside agencies that may have jurisdiction over aspects of the project for a Pre-Construction Conference to review all facets of construction and required inspections.

Mr. Cleary read his memo which stated the applicant has responded to the initial review comments: The limit of disturbance has been documented on the site plan. The applicant proposes to recycle the C&D material. If the material cannot be recycled, it will be disposed of at a licensed landfill. The applicant proposes to remove the C&D as soon as approval is granted, and will fill and restore the site immediately thereafter. This is not proposed as a long-term or multi-phased project. No tree removal is proposed. It is recommended that the public hearing on this application be scheduled, and the application be referred to the ECB.

Mr. Paul Lynch of Putnam Engineering, representing the applicant asked the board if a public hearing could be scheduled and to consider a reduction in the bond.

Mr. Gainer stated the purpose of a bond is to ensure the work is done. The basis for the bond was actually provided by the design engineer to define and quantify the extent of work that is intended. Physical concerns the board may have, since there isn't going to be any lasting improvements on the site is specifically for erosion control. The code specifies that you bond all facets of site improvements. The town has waived facets of that in the past, such as NYCDEP projects.

Mr. Charbonneau stated in those cases we have taken written undertakings.

Mr. Gainer stated he didn't object in principal to what's being asked of the applicant, but it is up to the board to decide. The ordinance does permit you to ask for bonding on the value of the entire site work being presented to you.

Mr. Gary stated my only concern is we do not want set a precedent. Everyone will come here and ask if a bond is needed.

Mr. Charbonneau stated we have done it, but it was done in situations where we have large government agencies who are giving us undertakings. We do not have the same type of applicant before us. I would not be comfortable with doing that in this situation.

Mr. Lynch asked about the public hearing.

Mr. Greenwood stated setting a public hearing before going to another board, referred by us, is not something we should consider.

Mr. Greenwood move to refer to the ECB. The motion was seconded by Mr. Molloy with all in favor.

HILLSIDE COURT – 1819 ROUTE 6 – TM – 55.6-1-51 – RE-APPROVAL OF SITE PLAN APPROVAL

The consultants had no objection to the re-approval of site plan.

Mr. Greenwood moved to grant re-approval of the site plan for 1 year. The motion was seconded by Mr. Molloy with all in favor.

OLD FORGE ESTATES – BALDWIN PLACE RD – TM – 75.15-1-9-40 – 1st EXTENSION OF FINAL SUBDIVISION APPROVAL

The consultants had no objection to the extension.

Mr. Paul Lynch of Putnam Engineering, representing the applicant stated they are still waiting for outside agencies approval.

Mr. Cote moved to grant extension for two 90 days. The motion was seconded by Mr. Greenwood with all in favor.

ASA PETROLEUM CO. INC. – 1 FOWLER AVE – TM – 44.17-1-45 – 1st EXTENSION OF APPROVAL

Mr. Carnazza stated he does not object to the extension, but the applicant needs to get the property cleaned up.

Mr. Charbonneau addressed the board and stated there was a concern from the public that the applicant had expressed to the neighbors of a possible litigation between the applicant and the town which was delaying the process.

Mr. Ayaz Amin stated there is no litigation with the town. That's not the problem. He said the reason for the delay is I am finishing up on another site.

Mr. Gainer had no objection to the extension.

Mr. Cleary stated when we grant site plan approval for this, that approval included a number of site mitigation measures and that is what Mr. Carnazza is referring to. The site is in a condition of disrepair and your approval was fixing those things.

Mr. Gary stated if we grant an extension for 1 year, we will not know if he cleaned up the site or not.

Mr. Molloy asked if Mr. Carnazza could issue violations.

Mr. Carnazza replied yes, that will be my next step.

Mr. Greenwood commented on how the site looked deplorable and had already had a year to clean it up.

Mr. Gary suggested either to let it go and have it sit there for another five years or we could give him 3 months to clean it up.

Mr. Cleary stated if the site plan expires or it's denied you have nothing to enforce.

Mr. Amin stated he will meet with Mr. Carnazza as soon as possible to address all the issues on the site.

Mr. Molloy moved to grant extension for a period of 3 months from December 20, 2012 to March 20, 2013. The motion was seconded by Mr. Cote with all in favor.

UPPER LAKE SUBDIVISION - 47 UPPER LAKE RD - TM - 42.-1-57 - 1ST EXTENSION OF FINAL SUBDIVISION APPROVAL

The consultants had no objection to the extension.

Mr. Molloy moved to grant a 6 month extension. The motion was seconded by Mr. Greenwood with all favor.

MINUTES - 11/28/2012

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

Mr. Molloy moved to adjourn the meeting at 8:30 p.m. The motion was seconded by Mr. Greenwood with all in favor.

Respectfully submitted,

Rose Trombetta