

APPROVED

CRAIG PAEPRER
Chairman

ANTHONY GIANNICO
Vice Chairman

BOARD MEMBERS
RAYMOND COTE
ROBERT FRENKEL
VICTORIA CAUSA
JOHN NUCULOVIC

TOWN OF CARMEL
PLANNING BOARD



60 McAlpin Avenue
Mahopac, New York 10541
Tel. (845) 628-1500 – Ext.190
www.ci.carmel.ny.us

MICHAEL CARNAZZA
Director of Code Enforcement

RICHARD FRANZETTI, P.E.,BCEE
Town Engineer

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

PLANNING BOARD MINUTES
JULY 13, 2023

PRESENT: VICE CHAIRMAN, ANTHONY GIANNICO, RAYMOND COTE, VICTORIA CAUSA, ROBERT FRENKEL, JOHN NUCULOVIC

ABSENT: CHAIRMAN, CRAIG PAEPRER

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>TYPE</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Shllaku Development Inc.	64.9-1-13	Sketch Plan	1-2	No Board Action.
Pani, Fabian	75.17-1-52	Regrading	3-6	No Board Action.
Minutes – 04/13/23, 5/11/23, 05/24/23 & 06/08/23			6	Approved.

The meeting was adjourned at 7:36 p.m.

Respectfully submitted,

Rose Trombetta

SHLLAKU DEVELOPMENT INC. – 345 AUSTIN ROAD – TM – 64.9-1-13 – SKETCH PLAN

Mr. Carnazza stated they are trying to divide a lot and it's already a flag lot now into two flag lots. According to the plat the two lots are sharing a driveway with the neighbor to north. We need to make sure we get a copy of all the easements for Mr. Charbonneau to review. Variances are required from the Zoning Board for lot width for lots 1 and 2 and frontage for lots 1 and 2.

Mr. Franzetti read his memo which stated application encompasses a proposal to subdivide a 5.84 acre parcel at 345 Austin Road into 2 lots. Lot 1 will be 2.76 acres and Lot 2 will be 3.07 acres. The following are preliminary comments:

- Provide signed/sealed, by licensed surveyor, survey of property.
- It is unclear if the properties have sufficient road frontage.
- A Driveway maintenance agreement between lots 1, 2 and the adjacent property should be provided.
- The Board should be aware that the applicant, as identified in the application, will pay a recreation fee for the site, no area is proposed for recreation/open space.
- As the subdivision plans are refined, all missing elements mandated by §131-13 should be incorporated into the project's design plans.

Otherwise this Department has no objection to subdivision being presented.

Mr. Cleary stated the real issue with this is the driveway. We have an existing driveway that comes from the neighbor's property onto to this property and then back off again. It's an existing flag lot. Ordinarily, our standard is every lot has its own driveway. When you start sharing driveways it becomes problematic. The engineer needs to define why a common driveway is suitable in this particular instance. Can you create driveways on individual lots and not use that driveway? The existing driveway on the adjacent property is the curb cut that would now be used for additional dwelling, so we need to make sure site distances are adequate at that driveway on the neighbor's property.

Mr. Charbonneau asked do you know under what authority they could go on to the neighbor's property?

Mr. Paul Lynch of Putnam Engineering, representing the applicant replied there is a filed easement in the deeds.

Mr. Charbonneau asked is there language in there that you can't overburden the easement?

Mr. Lynch replied not that I know of.

Mr. Charbonneau stated you will have to get further clarification from the neighbor.

Mr. Lynch addressed the board and stated with the current conditions you have the existing driveway that comes off the neighbor's property. There is a very steep embankment along that strip on Austin Road. Our intention is to meet with the neighbor to discuss making improvements to the driveway as well as cutting back that embankment for better site distance. In terms of grade, it actually works best for us as well as the neighbor to come off in that location, because you're coming off at a higher elevation off of Austin Road. For us to come off of our own lot, we will have a whole series of back and forth movements to catch up to grade. We would like to expand the existing easement and have the driveway improved. We could address stormwater management now. Right now, you just have drainage coming off that hillside that goes out into Austin Road. We would be able to introduce infiltration to

deal with stormwater runoff, which I think would be positive. He said once you get to the top of the hill it pretty much straight forward, two big lots.

Vice Chairman Giannico asked Mr. Lynch to point on the map where you want to adjust the easement?

At which time, Mr. Lynch points to the map to show the location. He continued and stated in terms of fire access, you would want turnoffs for the cars going up and down the hill for line of site.

Mrs. Causa asked what happens if the neighbor does not agree to the expansion of the easement? What is the alternative?

Mr. Cleary stated if they have an easement agreement they are obligated. The issue is they just don't pay the plow guy, that's what often happens between two neighbors.

At which time, the board members and Mr. Lynch continued to discuss easement and maintenance agreements.

Mr. Charbonneau stated it should be a common driveway and maintenance agreement with all three owners. Obviously, the owner combined two of them presently, but that neighbor is the linchpin to this, because if the neighbor says no, you have to find an alternative means of access.

Mr. Lynch stated then I have to make a driveway work.

Mr. Frenkel asked what does an alternative solution mean?

Mr. Lynch stated I will come in at this location (points to map).

Mr. Carnazza stated the neighbor has to watch too, because if he does that then he may not allow him on his property. It goes both ways.

Mr. Lynch points to map again to show the location and stated you just end up with a lot of back and forth.

Mr. Frenkel asked is there any reason that the neighbor needs to access the current easement road while it's on your client's property?

Mr. Lynch replied he would have the same problem and issue.

Mr. Frenkel stated he has an incentive also.

Vice Chairman Giannico stated you have some work to do on this and get back to us with some correspondence from the landowner (neighbor).

Mr. Lynch replied will do.

PANI, FABIAN – 112 STILLWATER ROAD – TM – 75.17-1-52 – REGRADING APPLICATION

Mr. Carnazza stated he conducted a site visit with Mr. Karell and a NYCDEP representative. There are two spots that have to be cleaned up. Other than that, I didn't see any big amount of fill that was put in there. I don't have any objection to this.

Mr. Franzetti read his memo which stated the application involves the regrading and leveling of the backyard located at 112 Stillwater Rd. -13-1-8. The Planning Board should be aware that the applicant has already had soils delivered to the site and the applicant has provided soil testing results. The soil exceeds NYSDEC thresholds. The applicant will need to have the soils removed and disposed as per the NYSDEC. The overall disturbance for the project as submitted is ~13,000 sq-ft which is above the threshold criteria of disturbance for New York State Department of Environmental Conservation (NYSDEC) stormwater regulations. The development of Stormwater Pollution Prevention Plan (SWPPP) is required; however, erosion and sediment controls are required for the site. This Department reviewed the documentation provided and offers the following comments:

1. Provide a legend on the drawing;
2. A SWPPP is required;
3. A construction sequence and additional details should be provided on how the proposed work will take place;
4. All fill brought to the site must be certified per NYSDEC regulations and manifests/certification of the fill material being delivered should be provided.
5. Various plan information required pursuant to §156-43 ("Landfills, grading and excavations") is currently lacking. These include, but are not limited to:

Assessment of runoff from the site so as not cause erosion, landslides or increased runoff to abutting properties. The location of that portion proposed to be disturbed and its relation to natural watercourses, if any, within 300 feet of the boundaries of said portion of said premises herein referred to shall be shown. An inset map at a reduced scale may be used, if necessary. Existing and Final contours and show final slopes no steeper than one foot vertically for each two feet horizontally. The details of all erosion controls to be implemented.

Mr. Cleary stated the work itself is no big issue. He said a couple of verifications are necessary. There were soil sampling results, where did it come from? Was it done by a lab? There is a NYSDEC wetland adjacent to the property and it appears that some of this work occurs in the buffer. The applicant's engineer has spoken to the DEC and they stated it doesn't require a permit.

Vice Chairman Giannico asked did the DEC flag the wetland edge?

Mr. Jack Karell, applicant's engineer stated Ted Kozlowski – Wetland Delineator flagged it and DEC verified the wetlands.

Mr. Cleary stated to give us something from NYSDEC stating a permit is not required.

At which time, Mr. Karell pointed to the map to show the flagged DEC wetlands, 100-foot buffer and the two areas that were filled. Both of the areas were tested and this area complied with DEC's unrestricted use criteria and this one did not (points to map). This material will be removed. He said the original disturbance was 4,200 square feet at one location and the other location the disturbance was 200 square feet. That has all been revegetated. He stated this area here (points to map) wants to level it slightly for a play area for his children to play soccer. What he wants to do there is scrape it up, topsoil, seed it

and mulch it to grow some good grass. The only problem is the area where he had some soil that did not meet the unrestricted use criteria. It is only about 10 to 20 yards of material.

Vice Chairman Giannico asked when is the remediation and removal of the contaminated soil going to start?

Mr. Karell replied as soon as the town gives us the okay.

Mr. Franzetti stated once they get approval from the NYSDEC on how to move forward with it. A Notice of Violation was given and then they did soil sampling and now they're here to show the remediation and then level off the rest of the yard in the back. The applicant knows it needs to be cleaned.

Vice Chairman Giannico asked does the DEC notify us?

Mr. Karell stated the applicant doesn't intend to bring in anymore fill. But, he has to remove the old fill.

Mr. Franzetti asked doesn't DEC have to be a part of that?

Mr. Karell stated he will check with DEC. He said the reason why a SWPPP wasn't submitted because the original area of disturbance was less than 5,000 square feet. He said if you want me to submit a SWPPP, I'll submit one.

Mr. Carnazza stated if you regrade 5,000 square feet, you're required to do a SWPPP.

Mr. Karell stated he will submit a SWPPP.

Mr. Franzetti stated your application is for a regrading with 13,000 square feet of disturbance, so yes you need a SWPPP. It's an erosion sediment control plan.

A discussion ensued regarding the areas that needs to be remediated and the wetland buffer.

Mr. Cleary stated it's all up to DEC and if the removal of the fill doesn't require a wetland permit from DEC we're fine with that.

Mr. Frenkel asked if the fill is removed, are you replacing it with other fill?

Mr. Karell replied probably not. He said if we need to add a small amount of fill to level it off it will be from a certified location.

Mr. Frenkel asked if the DEC will decide whether or not additional replacement fill has to be added?

Mr. Karell replied yes.

Mr. Frenkel asked who will govern the process in making sure that if it's required to be replaced that the replacement fill is clean.

Mr. Karell replied it will be in conjunction with DEP, DEC and the town.

Mr. Cote asked is the fill on New York City property?

Mr. Karell replied yes.

Vice Chairman Giannico stated I would think they would want to move quickly on remediating that, because it slopes down to the wetlands.

Mr. Karell, stated at this point, I have to contact both the DEP and DEC about this fill (points to map). We're here to get a permit from this board and possibly the ECB to legalize the previous work and then the rest of the lawn area (points to map) that's 13,000 square feet.

Mr. Karell continued and asked what is the next step?

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

Vice Chairman Giannico stated before we do that, I want to go back to the five sample points which were collected on December 20, 2022 and they exceeded acceptable limits, is that correct?

Mr. Cleary stated the DEC regulates contamination with respect to the use of the property. Unrestricted is anything in the earth that's funky, it's unrestricted, but if it's for residential, commercial use those exceedances vary. Knowing where these numbers came from, we have to determine for unrestricted use is this an exceedance. Just because the number is higher it doesn't mean it, it depends on how it's being used. What's questionable is, it is being used by the DEP for watershed protection services, that may change things. I think the DEP was at the site. You would assume they would care more about these exceedances than anybody else. If there is contaminated material in land that they are protecting for watershed protection presumably they have a problem with that.

Vice Chairman Giannico stated for the record we have four sample points that exceed limits. I think we have a responsibility to bring this to light and personally a remediation should be done on the whole property.

Mr. Franzetti stated the state has just come out with most recent degrees of restricted and unrestricted uses. It's up to the applicant to look at those regulations and then get buy in from the DEP and DEC with that assessment. They may be suitable for the use that it is, but there is a chart that's out there.

Vice Chairman Giannico stated I would like to know that answer before we schedule a public hearing.

The board members continued to discuss the exceedance limits on the property.

Mr. Frenkel stated what we need to know are the results of the limits for a residential backyard. If the result is okay, that's fine, but if the result is not okay that we will need the fill to be replaced.

Mr. Karell stated I have been involved in several of these fill projects and some of them were more substantial than this. DEC does not give comfort letters unless it is a remediation thing. Those metals, such as mercury and lead are in soils naturally. He stated he will contact the DEP and DEC to see what they want us to do.

Mr. Cleary stated DEC may have a roll in remediating the contamination. The entire area.

Mr. Frenkel stated there are two bridges to cross. First, let's see if there is a problem and if there is a problem, how will it get remediated.

Mr. Cleary stated and Mr. Karell will tell you whether there is a problem or not based on DEC guidance for this and the chart that Mr. Franzetti was describing earlier.

MINUTES - 04/13/23, 05/11/23, 05/24/23 & 06/08/23

Mr. Frenkel moved to approved the minutes as corrected. The motion was seconded by Mr. Cote with all in favor.

Mr. Frenkel moved to adjourn the meeting at 7:36 p.m. The motion was seconded by Mrs. Causa with all in favor.

Respectfully submitted,

Rose Trombetta