

HAROLD GARY  
*Chairman*

**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 Code  
Enforcement*

RICHARD FRANZETTI, P.E.  
*Town Engineer*

**BOARD MEMBERS**

CARL GREENWOOD  
JOHN MOLLOY  
JAMES MEYER  
ANTHONY GIANNICO  
CRAIG PAEPRER

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

**PLANNING BOARD AGENDA**  
**SEPTEMBER 3, 2014 – 7:00 P.M.**

**MEETING ROOM #2**

**REVISED**

**TAX MAP #   PUB. HEARING   MAP DATE   COMMENTS**

**PUBLIC HEARING**

- |    |   |            |        |                  |
|----|---|------------|--------|------------------|
| 1. | Lutz, Wayne – 230 East Lake Blvd          | 65.17-1-14 | 9/3/14 | Bond Return      |
| 2. | Lakeview Realty 168, LLC – East Lake Blvd | 76.22-1-4  | 9/3/14 | 8/1/14 Site Plan |

**RESOLUTION**

- |    |  |            |        |                   |
|----|--|------------|--------|-------------------|
| 3. | CVS/Pharmacy – 1879-1905 Route 6, Carmel | 55.10-1-12 | 7/1/14 | Amended Site Plan |
|----|--|------------|--------|-------------------|

**MISC.**

- |    |   |                 |        |   |
|----|---|-----------------|--------|---|
| 4. | Infantino, Thomas – Split Rock Rd           | 64.8-1-19,20,21 |        | Bond Reduction  |
| 5. | Kobu Asian Bistro – 903 South Lake Blvd     | 75.12-2-5       |        | Bond Return   |
| 6. | MacDonald Marine – 681 Union Valley Rd      | 76.20-1-13      |        | 1 <sup>ST</sup> Extension of Site Plan Approval             |
| 7. | Campanelli, Michael – 424 Baldwin Place Rd. | 75.11-2-25      | 6/3/14 | Waiver of Site Plan Application                             |
| 8. | Minutes – 6/11/14 & 7/9/14                  |                 |        |   |
| 9. | Executive Session                           |                 |        | Article 78 - Putnam Community Foundation Pending Litigation |

8/13/2014

Thomas Infantino

52 Split Rock Road

Mahopac, NY 10541

To whom it concerns:

I would like to apply for a bond reduction for the Infantino property located at 52 Split Rock Road, Mahopac, NY 10541 TM# map 64.08 block 1 lot 19.

Thank you,

A handwritten signature in black ink, appearing to read 'Thomas Infantino', written over a printed name.

Thomas Infantino

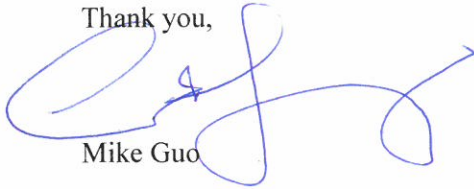
August 15, 2014

Kobu Asian Bistro  
903 South Lake Blvd  
Mahopac, NY 10541

To Whom It May Concern,

I would like to apply for a bond ~~Refund~~ for Kobu Restaurant located at 903 S. Lake Blvd, Mahopac NY 10541, TM #75.12-2-5.

Thank you,



Mike Guo

## Trombetta,Rose

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**From:** Esteves,Donna  
**Sent:** Monday, August 18, 2014 10:10 AM  
**To:** Trombetta,Rose  
**Subject:** FW: Planning board permit extension

Rose,

See below.....

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**From:** Ken MacDonald [<mailto:macdonaldmarine@verizon.net>]  
**Sent:** Friday, August 15, 2014 3:13 PM  
**To:** Esteves,Donna  
**Subject:** Planning board permit extension

Harold Gary,

We would like to apply for an extension to our planning board permits to build on the property at 681 Union Valley Road, Mahopac NY 10541.

Thank You,  
Ken MacDonald  
MacDonald Marine, Inc.  
"Keeping Families Afloat Since 1967!"  
845-628-2333

*William A. Shilling, Jr., P.C.*

*Attorney at Law*

*122 Old Route 6*

*Carmel, New York 10512*

*E-Mail was.law@comcast.net*

*Michael V. Caruso*

*\*Also admitted in CT*

*Phone (845) 225-7500*

*Fax (845) 225-5692*

August 6, 2014

BY HAND DELIVERY

Planning Board of the Town of Carmel  
60 McAlpin Avenue  
Mahopac, New York 10541

Re: Application for waiver of site plan approval for real property known as  
424 Baldwin Place Road, Mahopac, New York 10541 (the "Premises")

Dear Chairman Gary and Members of the Planning Board:

This office represents the applicant, Michael Campanelli, as record owner of the Premises. In addition to the surveys previously furnished to the Planning Board, attached are ten (10) copies of floor plans for the three (3) residential dwellings on the Premises and a memorandum of law providing a brief background on this application for waiver of site plan approval. In total, the three dwellings on the Premises account for eight (8) bedrooms.

Also enclosed are ten (10) copies of the Zoning Board's decision, dated January 23, 1986. The Zoning Board granted interpretive relief permitting the conversion of a commercial space (1,000 sf) within the largest, most westerly building on the Premises into two (2) one-bedroom apartments. Please do not hesitate to contact me with any questions.

Very truly yours,



Michael V. Caruso

cc: Town of Carmel Zoning Board of Appeals  
Michael Campanelli

PLANNING BOARD  
TOWN OF CARMEL

In the Application of

MICHAEL CAMPANELLI

Petitioner,

For Waiver of Site Development Plan Approval  
Pursuant to Section 156-61(L) of the Code of the  
Town of Carmel.

MEMORANDUM OF LAW

POINT I

PETITIONER'S APPLICATION IS  
CONSISTENT WITH THE REQUIREMENTS  
FOR WAIVER OF SITE PLAN APPROVAL

Section 156-61(L) of the Code of the Town of Carmel entitled "[s]ite plan approval" provides as follows:

"[s]ite development plan approval as required in this chapter may be waived, in whole or in part, when the site development is for a conforming use or occupancy *that will not enlarge an existing building* and where said conforming use or occupancy would also *conform to all other requirements of this chapter.*" (emphasis added).

By a decision of the Town of Carmel Zoning Board of Appeals (the "Zoning Board"), dated January 23, 1986, a copy of which is annexed, petitioner's predecessor-in-title, Norman E. Hill, was granted an interpretation to permit the conversion of a commercial space of one-thousand (1,000) square feet within a dwelling on the Premises (424 Baldwin Place Road, Mahopac, New York 10541; TM No. 101-4-32) into two (2) one-bedroom apartments.

The prior commercial use of this space was both non-conforming and proved increasingly arduous to maintain as a commercially viable space. Thus, the Zoning Board eliminated the mixed use building on the Premises in favor of a more restrictive use, that being

strictly residential. All three (3) existing building on the Premises have and continue to be utilized as residential dwellings.

It is clear that none of the existing dwellings on the Premises are or have been enlarged since Petitioner has been in record ownership thereof. The Town of Carmel Building Inspector has confirmed by a memorandum, dated April 30, 2014, that no relief is required before the Town of Carmel Zoning Board of Appeals. Thus, Petitioner's application for waiver of site plan approval to continue utilizing the Premises as having eight (8) residential dwelling units is appropriate.

## POINT II

### WAIVER OF SITE PLAN APPROVAL IS AUTHORIZED DESPITE ANY NONCONFORMITIES ON THE PREMISES

Section 156-47(A) of the Code of the Town of Carmel entitled "[c]ontinuation" provides, in pertinent part, as follows:

"[a]ny type of nonconforming use of buildings or land may be continued indefinitely, but shall not be:

(1) *Enlarged or structurally altered, extended or placed on a different portion of the lot or parcel of land occupied by such use* on the effective date of this chapter or of any applicable amendment thereof, nor shall any external evidence of such use be increased by any means whatsoever, except whereby, through such alteration, it is changed to a conforming use;

(2) Changed to another nonconforming use without approval from the Board of Appeals and then *only to a use which, in the opinion of said Board, is of a more restricted nature.*" (emphasis added).

The Code of the Town of Carmel contemplates that any type of nonconforming use of buildings or land may be continued indefinitely.

One of the clear purposes of Sections 156-47 is to accommodate for nonconforming land and uses of land that are not developed over time. Here, *but for* the change of use within the

one-thousand (1,000) square feet of commercial space of the largest building on the Premises, Petitioner has neither developed nor does he intend to develop the Premises beyond the nonconformities that were previously recognized as lawful by the Town of Carmel Zoning Board of Appeals in 1986. In creating two (2) additional dwelling units on the Premises, the Zoning Board acknowledged this use as being “more restrictive and in conformity within the residential area in which it is located.” Petitioner’s application and use of the Premises is in keeping with these policies.

Notwithstanding the above, Town Law Section 274-a(5) entitled “[w]aiver of requirements”, authorizes a Planning Board to:

“when reasonable, waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in the ordinance or local law adopted pursuant to this section, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.”

Consistent with Town Law Section 274-a(5), the Code of the Town of Carmel contemplates scenarios in which nonconforming uses of real property should be allowed to continue provided the intensity and scope of their use remains consistent. Petitioner’s use of the Premises as housing eight (8) residential units has been continuous and uninterrupted since 1986. Additionally, Petitioner has received approval from the Putnam County Board of Health for the eight (8) bedroom count reflected on the surveys annexed to this application.

Any nonconformities arising by virtue of amendments to the Code of the Town of Carmel to date are mitigated by both the Zoning Board’s interpretive decision and Petitioner’s reasonable and consistent use of the Premises for residential purposes. Thus, any nonconforming



dimensions and/or uses of the Premises may be lawfully continued and do not affect Petitioner's entitlement to waiver of site plan approval.

CONCLUSION

Based on the above, Petitioner respectfully requests the grant of waiver of site plan approval pursuant to 156-61(L) of the Code of the Town of Carmel with respect to the Premises.

Dated: Carmel, New York  
August 6, 2014

**WILLIAM A. SHILLING, JR., P.C.**

By: 

Michael V. Caruso

122 Old Route 6  
Carmel, New York 10512  
(845) 225-7500

*Attorneys for Petitioner*

March 13, 1986

Mr. Martin King  
Professional Building  
Baldwin Place, New York 10505

Re: Norman Hill - TM 101-4-32  
499 Baldwin Place Road, Mahopac

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Dear Mr. King:

As you are aware, the Zoning Board of Appeals of the Town of Carmel, on January 23, 1986, rendered an interpretation as to the use of the above captioned property.

The Board found that the proposed use of the 1000 sq. ft. commercial space can be converted to two one bedroom apartments and will thus be in conformity with the residential area in which it is located. In addition to the two new apartments, there are four pre-existing apartments making a total of six apartments and two cottages for a total of eight dwelling units.

The Board's finding is contingent upon the applicant obtaining site plan approval from the Town of Carmel Planning Board and a cessation of all commercial activity on the site.

Very truly yours,

Peggy Moore, Secretary  
to the Zoning Board of Appeals

# ZBA

Town of Carmel  
ZONING BOARD OF APPEALS

McALPIN AVENUE - MAHOPAC, NEW YORK 10541

914-628-1500

INTERPRETATION OF SECTION 63-12 (B)

APPLICANT - NORMAN E. HILL

FINDINGS OF FACT

Application concerns property located at 499 Baldwin Place Road, tax map #101-4-32 in an R-40/30 zone, Mahopac, New York.

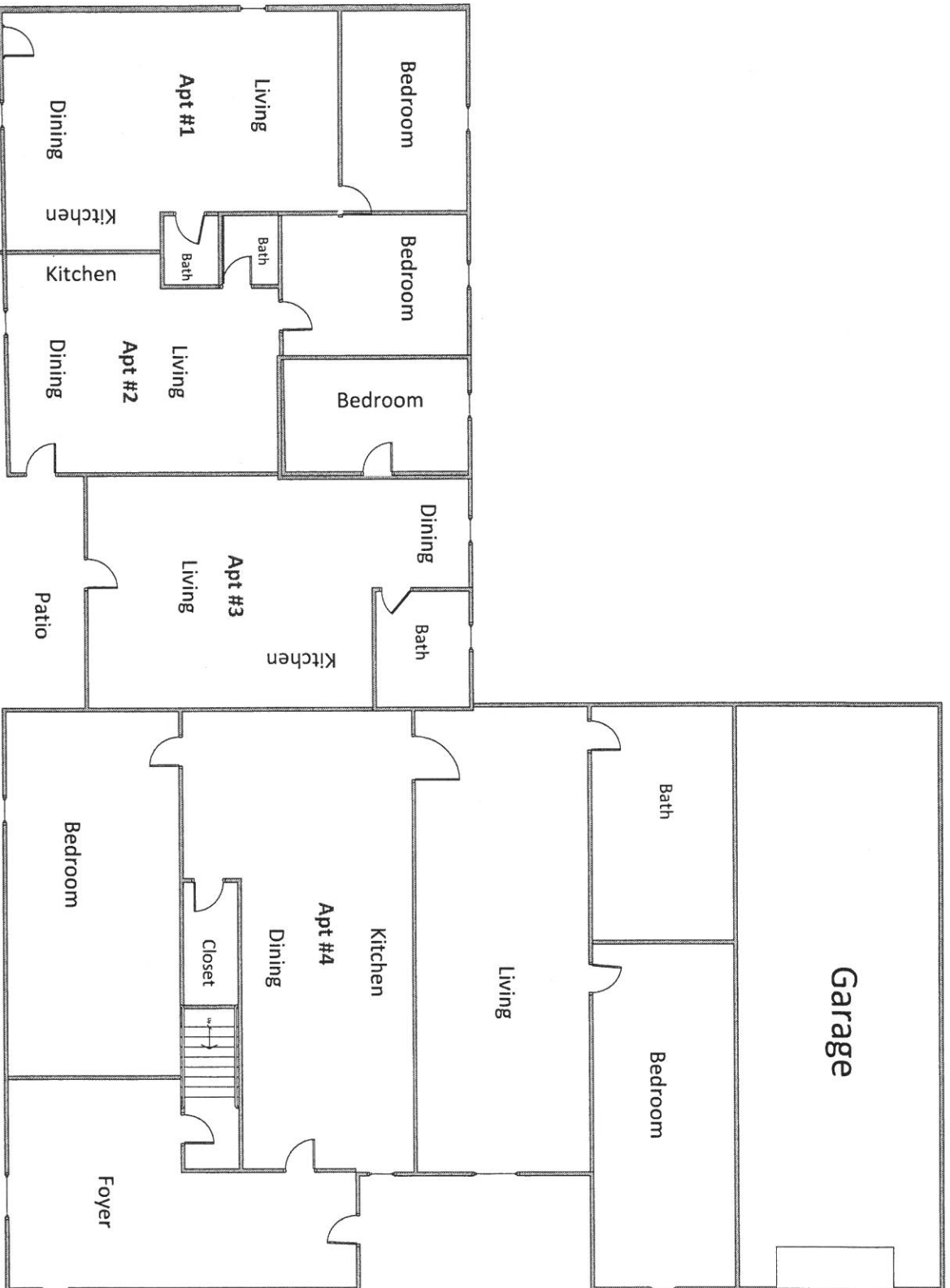
William Shilling, Esquire, representing the applicant, appeared before the Board and stated that his client wished an interpretation of Section 63-12 (B) which states that non-conforming uses shall not be changed to another non-conforming use without approval from the Board of Appeals and then only to a use which, in the opinion of the Board, is of a more restricted nature. He said the subject structure has four residential units and 1000 sq. ft. of space previously used for commercial purposes. The applicant wishes to discontinue the commercial use and establish two one bedroom apartments. His client bought the subject property in 1978 and part of the structure had been used as an appliance store until 1983 when the applicant was unsuccessful in continuing the commercial rental. The applicant warehoused appliances on the site as well as doing repairs and holding garage sales. The applicant wants to discontinue the non-conforming use and create two one bedroom apartments in the 1000 sq. ft. commercial area. He thought that was more restrictive and in conformity with the residential zone in which the building is located. Mr. Shilling stated that he thought under the code, a commercial use is less restrictive than a residential use and that as a matter of law, a residential use is more restricted than a commercial one.

INTERPRETATION

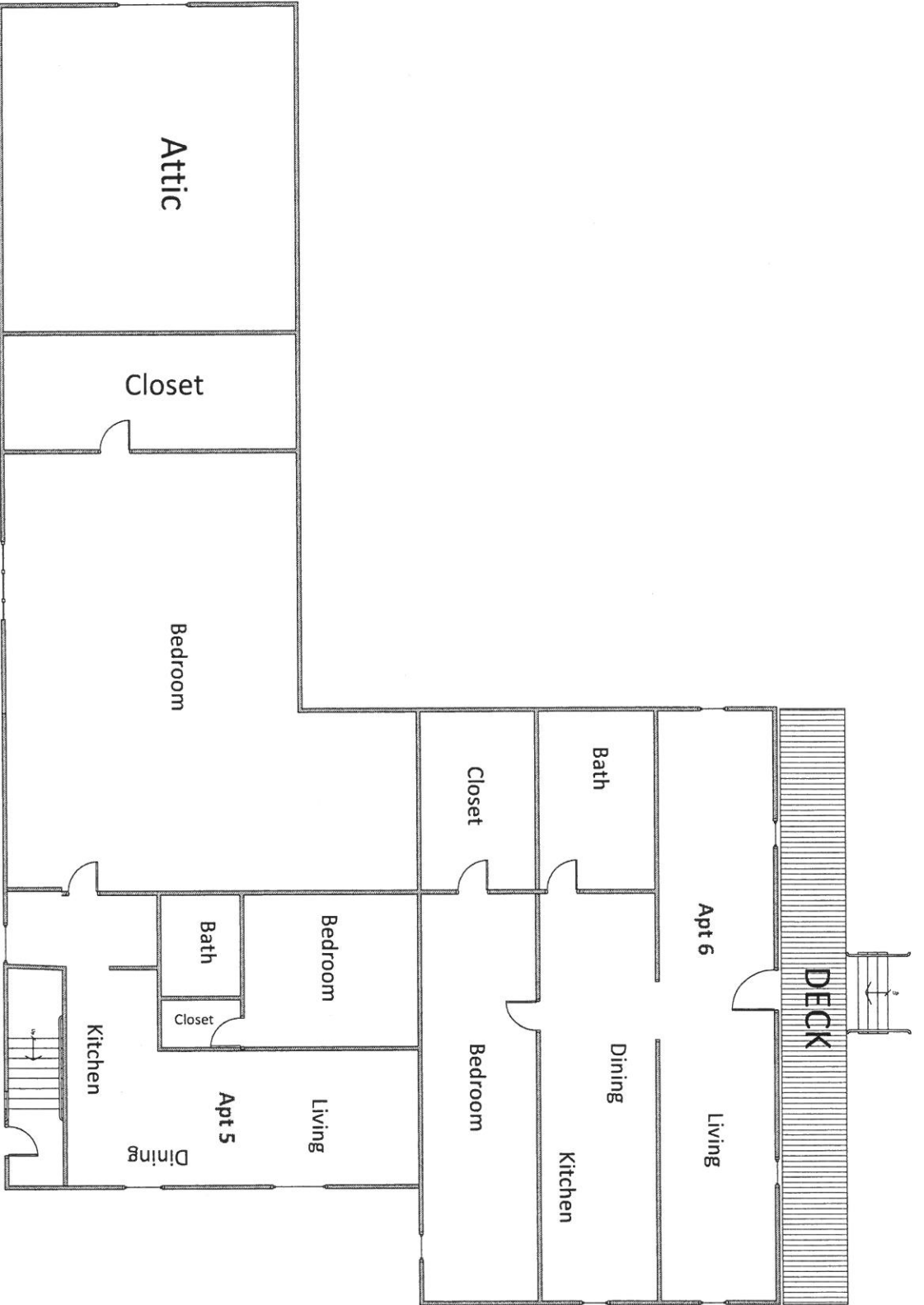
After due deliberation, the Board found the applicant's request, in light of Section 63-12(B), to be that the proposed use of the 1000 sq. ft. of commercial space to wit: the creation of two one bedroom apartments, is more

restrictive and in conformity with the residential area in which it is located. This finding is contingent upon the applicant obtaining site plan approval from the Town of Carmel Planning Board and a cessation of all commercial activity on the site. This approval is conditioned upon the issuance by the Planning Board of a site plan approval upon such terms as the Planning Board deems necessary to the extent the applicant can comply with the requirements for the RMF zone. The filed site plan shall state that the use was approved by the ZBA.

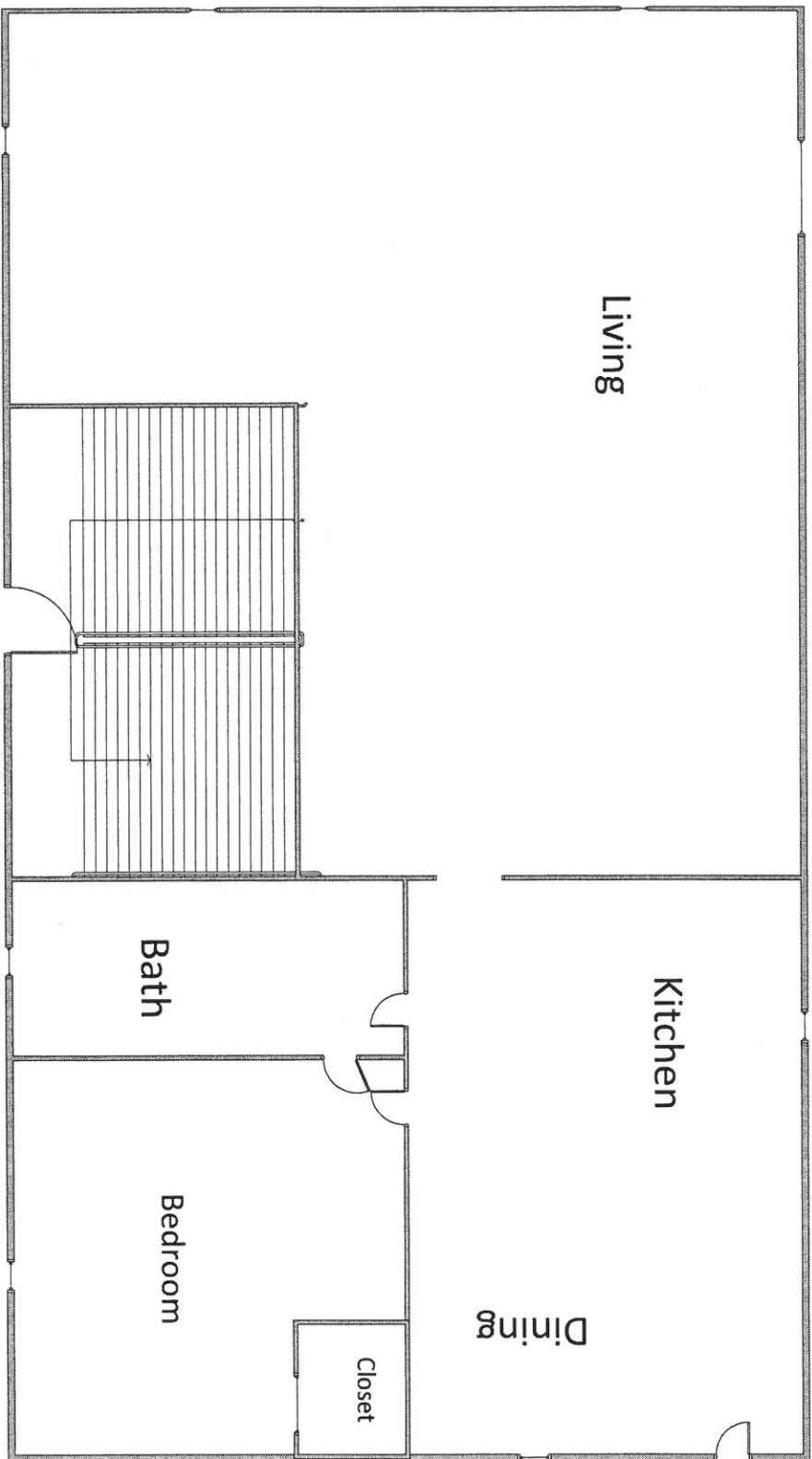
Joseph Girven, Chairman



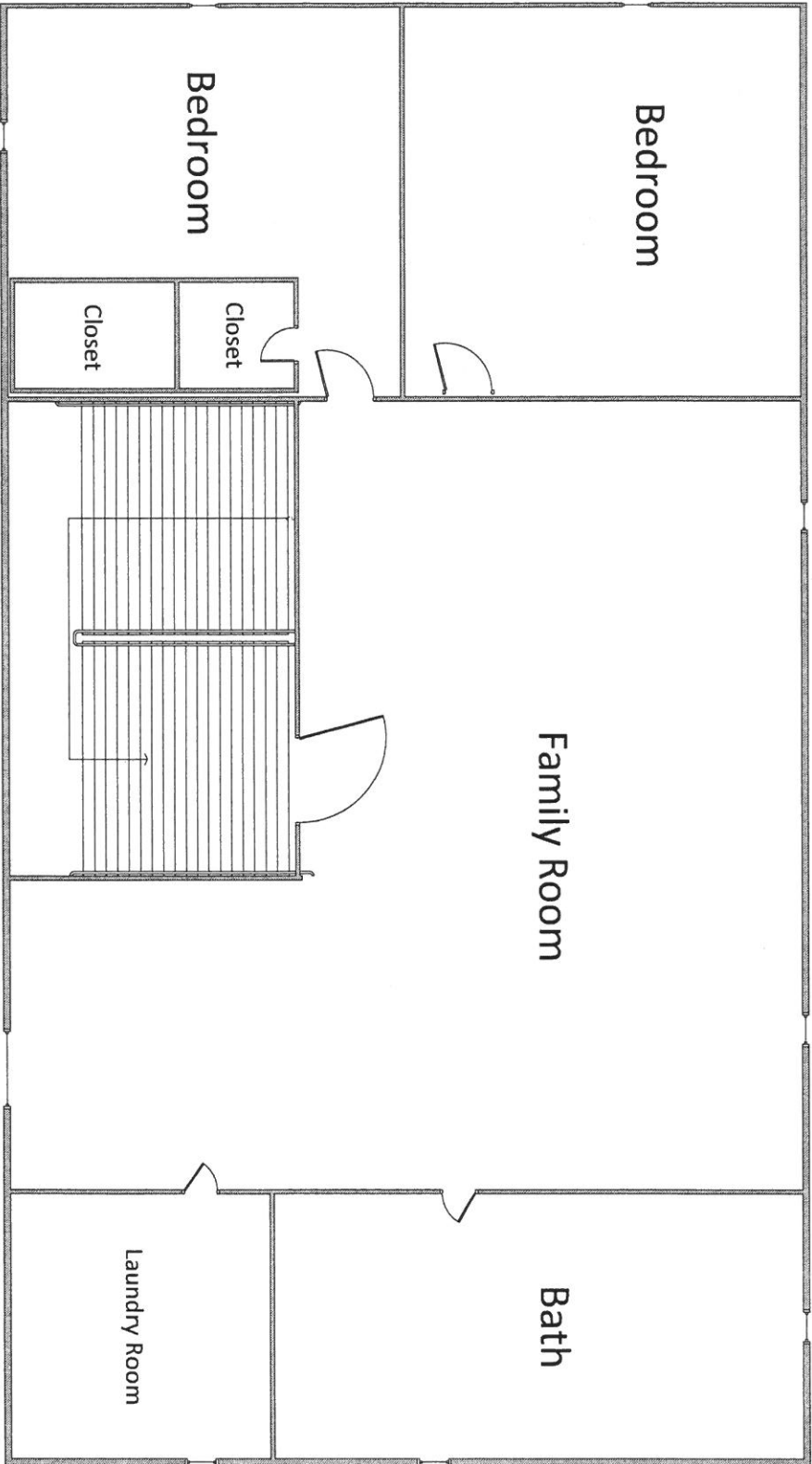
Lower Floor Layout



Second Floor Layout

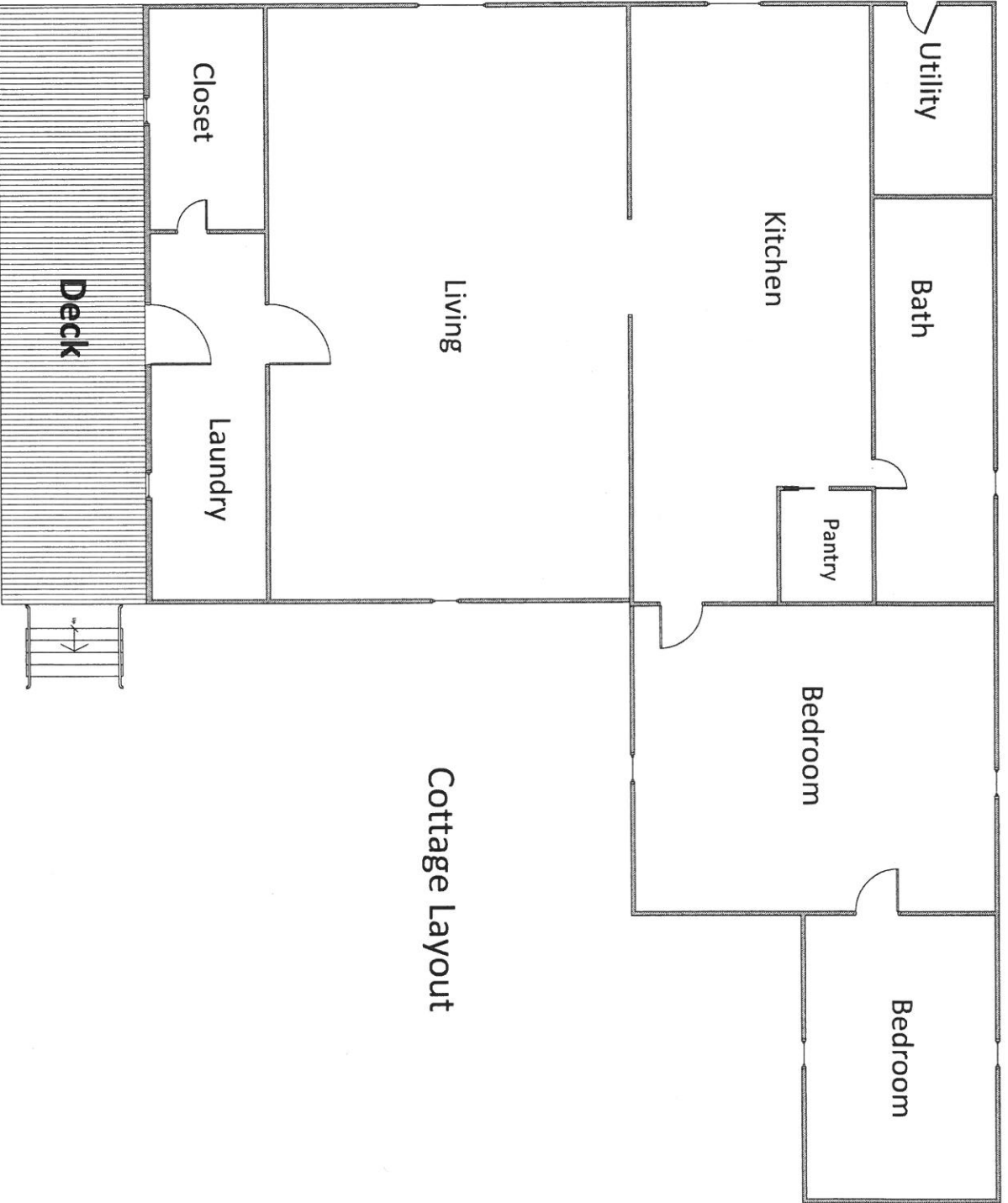


High Ranch House Upper Layout



High Ranch House Lower Layout





Cottage Layout