

APPROVED

HAROLD GARY
Chairman
RAYMOND COTE
Vice-Chair

**TOWN OF CARMEL
PLANNING BOARD**



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*Director of Code
Enforcement*

RICHARD FRANZETTI, P.E.
Town Engineer

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AICP, CEP, PP, LEED AP
Town Planner

BOARD MEMBERS

CARL GREENWOOD
JOHN MOLLOY
JAMES MEYER
ANTHONY GIANNICO
CRAIG PAEPRER

PLANNING BOARD MINUTES
APRIL 30, 2014

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

<u>APPLICANT BOARD</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE</u>
Tompkins Recycling	55.11-1-15	1	Extension	6 Month Extension Granted.
Campanelli, Michael	75.11-2-25	1-5	Waiver	No Board Action.
Paladin Center, LLC.	55.10-1-1	5-9	Waiver	Public Hearing Scheduled.
Minutes – 4/9/2014		9		Approved.

The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Rose Trombetta

**TOMPKINS RECYCLING – OLD ROUTE 6 – TM – 55.1-1-15 – 1ST EXTENSION
OF AMENDED SITE PLAN APPROVAL**

The consultants had no objection to the extension.

Mr. Greenwood asked what the reason for the extension was.

Mr. Paul Lynch of Putnam Engineering, representing the applicant stated there are a couple of more permits that need to be finalized. One of the permits is from NYSDEC.

Mr. Greenwood asked if anyone was operating on the site.

Mr. Lynch stated the applicant has been off the site for a while, but is in the process of removing debris from the site. It has been a slow process.

Mr. Greenwood asked if it could be expedited.

Mr. Lynch replied he will let the applicant know.

Mr. Franzetti asked Mr. Lynch what DEC permit he was referring to.

Mr. Lynch said the FEMA floodplain map needs to be corrected.

Mr. Franzetti asked if the ECB wetland permit is in order.

Mr. Lynch replied yes.

At which time, a discussion ensued regarding the debris on the site.

All the board members were in agreement that the site needs to be cleaned up as soon as possible.

Mr. Carnazza suggested making it a condition, that the plan will not be signed until it's cleaned up.

Mr. Cote moved to grant a 6 month extension, subject to the site being cleaned to the satisfaction of the Building Inspector. The motion was seconded by Mr. Meyer with all in favor.

**CAMPANELLI, MICHAEL – 424 BALDWIN PLACE ROAD – TM – 75.11-2-25 –
WAIVER OF SITE PLAN APPLICATION**

Mr. Meyer recused himself and left the podium.

Mr. Carnazza read his memo which stated he had no objection to the waiver of site plan approval. The owner obtained an interpretation that the change of use from Dwelling Units and an Electricians Business to all Dwelling Units is more conforming to code and therefore, allowed by right. The ZBA conditioned the approval that the applicant must go to the Planning Board. The applicant applied to the Planning Board and was denied a waiver. The applicant now returns to the Board to request a waiver for the second time as there have been no changes to the site and no variances are required. He said the applicant needs to clarify which map is correct. One map shows the building is .7 feet over the property line and the other map shows it is within the property line.

Mr. Franzetti stated he had no objection to the waiver as long as there were no site changes.

Mr. Cleary stated he had no objection to the waiver and the question we had related to Mr. Carnazza's confirmation that the pre-existing activities on the site were understood and were identified in the prior application. Mr. Carnazza has clarified that and the applicant has not done anything since that time. He said there no expansion, no modification and the pre-existing condition remains unchanged. He said I have no objection to legalizing the site.

Mr. Gary addressed the board members and stated this was once before the board about 30 years ago for the same application and it was denied.

Mr. Molloy asked why is this application in front of the board now?

Mr. Carnazza stated our office did a municipal violation search and when the inspection was done on the property to verify the number of units, it did not match with what we had in our file.

At which time, a discussion ensued regarding the number of units on the property and did the applicant ever seek approval for the correct number of units.

Mr. Carnazza addressed the board and stated the applicant first came to the board in 1986 for a waiver, because one of the conditions of the variance from the Zoning Board was for them to go to the planning board. He said the planning board denied the waiver and said a full site plan review was required. He said the applicant is here tonight based on the new law. He said the applicant went to the Zoning Board and got a favorable opinion that taking the mixed use out would make it a better fit for the Town.

Mr. Greenwood asked Mr. Charbonneau for clarification on waivers of site plan.

Mr. Charbonneau stated you are making a determination that the changes do require a full review.

Mr. Greenwood stated by the applicant not having an existing site plan approval what would be the liability of the Town?

Mr. Charbonneau stated in his opinion before the board considered waiving site plan approval on this; you need to address the issue relative to the encroachment. He said unless you are completely satisfied with the present conditions of the premises you probably should not waive site plan approval.

Mr. Greenwood agreed with Mr. Charbonneau.

At which time, a further discussion continued regarding the waving of site plans.

Mr. Cote stated beyond the encroachment issue, there are other issues that need to be looked at that were noted by Mr. Cleary (parking area, lack of approved parking, driveway).

Mr. Greenwood agreed. He states the town code requires that those areas be paved.

Mr. Cleary said most of the site plan requirements are not met by this pre-existing condition.

Chairman Gary stated there are a couple of other things we should look at with this application. Back when, the ZBA had no problem with it before it came to this board. It actually made the application more compliant, therefore the board members had no problem with it, but the chairperson at the time would let them vote on it. He said in my opinion it made it better.

Mr. Carnazza stated it eliminated a non-conformity of a mixed use.

Mr. Cleary said it's a residential zone, so the commercial use was eliminated. Now it is a fully residential project.

Mr. Molloy stated that's what the Zoning Board considered years ago and then it went to the Planning Board.

Mr. Carnazza stated that's correct. He said it was on the order of the Zoning Board.

Mr. Molloy stated and the Planning Board made a decision back then. He said I haven't heard any change in the property since the Planning Board denied the application years ago. He asked wouldn't an applicant have to show some change in the property before he is allowed back in front of the board?

Mr. Cleary said the applicant's position was the entire site improvements were pre-existing conditions. He said they were not seeking site plan approvals for what they submit. Their position is it has always been that way and they

haven't changed it.

Mr. Molloy stated basically, they are asking us to review the previous Planning Board decision, which is not our role. He said we could make a new decision based upon new facts, but there are no new facts. Is this correct?

Mr. Charbonneau stated you are absolutely right. There is no prohibition for the applicant to come back to the board. He said you could treat it as a de novo application.

Chairman Gary asked Mr. Cleary for his recommendation.

Mr. Cleary stated before the board takes any action we need to know about the encroachment before any decision could be made.

Chairman Gary stated I agree with that, but we should let them know what process we are taking. If we are not going to grant him a waiver he needs to know that.

Mr. Carnazza said if he does go through the site plan process he will require numerous variances.

Chairman Gary asked Mr. Charbonneau for his opinion.

Mr. Charbonneau agreed with Mr. Cleary. He said the issue is the board has to rely on documents that have been presented. There are inconsistencies in those documents. Before the board does anything that has to be explained to the satisfaction of the board and at that point the board is free to make its own decision with respect to the waiver.

Chairman Gary asked the applicant, Mr. Rocco Campanelli if he understood.

Mr. Campanelli replied yes, I have to validate the survey. He stated if there is an encroachment, I would like to come back with something that is acceptable to board for the waiver of site plan. If we don't get a waiver, I'm not sure what the remedy is.

Mr. Carnazza said you will need multiple variances from the ZBA. You are okay with the use variance and that's the hardest one.

Mr. Charbonneau suggested to the applicant if it is determined that there is an encroachment, to contact him and we will figure out a way to get a document that is sufficient for the board.

Mr. Campanelli said so right now I need to validate the survey and come back to the board.

At which time a discussion ensued regarding what the next step would be, if

the waiver of site plan is denied and the pre-existing conditions of the property.

Chairman Gary stated to Mr. Campanelli to clear up the encroachment and come back to the board. He said the board will vote on the waiver of site plan and if the waiver is denied you will have to go through the site plan process.

Mr. Meyer returned to the podium.

PALADIN CENTER – 39 SEMINARY HILL ROAD – TM – 55.10-1-1 – WAIVER OF SITE PLAN

Mr. Carnazza read his memo which stated the tenant is applying for a change of use from Book Manufacturing and Publishing to a Training Facility. The use is allowed by right. Please explain what will be typical for the outdoor training areas. It is very important for the board to understand what, when and where the outdoor training will take place. He said he had no objection to the Waiver of Site Plan Approval.

Mr. Franzetti had no comments.

Mr. Cleary addressed the board and stated the applicant was before us about a year ago for an amended site plan that involved the Paladin facility and an office building. The site plan was approved, but not fully executed. He said the waiver does not relate to that site plan. It relates to the previous site plan which was the Guidepost facility. This issue before us is the re-conformation of the training exercises that were explained to us with respect to the last site plan, is it the same training going on today. That's the question.

A discussion ensued regarding the existing site plan (Guideposts) and the amended site plan (new office building).

Mr. Carnazza said the amended site plan was never executed, they never completed their conditions. So you can't get a waiver of site plan on the new drawing. They are asking for a waiver of the existing building.

Chairman Gary asked what happens to the amended site plan that was not executed.

Mr. Carnazza replied if they are able to get their funding to build it, they will pay their inspection fees and bonding put in the road and anything else.

Mr. Molloy stated they have been a good neighbor for the past years. I haven't heard any complaints. It's been in use and it's a good facility. We should consider the waiver if the training is the same.

Mr. Harold Lepler, Owner of the property addressed the board and expressed his gratitude to the board in regards to the site plan process with both the Guideposts and amended site plan (new office building). He said the main issue is the bonding requirement and what that means to keep a site shovel ready. We presented a formal legal opinion to the Town regarding bonding of private improvements. He said we would like to keep that site approved and shovel ready. He said since we have taken over the site we have been good neighbors. As far as Paladin is concerned, the use and the building is consistent with everything that has been previously presented.

Chairman Gary asked for clarification on which site plan the applicant is asking for a waiver.

Mr. Carnazza stated it's the exact same site plan that was submitted to you last time without the new building and new infrastructure that the parking lot and the driveway to the parking lot. It includes where the soccer field is now, the training area across the back of the property and that is the area where he would be doing any training.

Chairman Gary asked is that the original site plan?

Mr. Cleary replied that's correct.

Mr. Giannico stated so this site plan is already stamped and approved?

Mr. Carnazza stated that's correct. The only changes are what's the outdoor training area, what, where and why are you doing it? He said we need a little background as to what's going to be going on. He already explained they're going to have fire trucks and ambulances out there. They're going to do certain training, but I don't know all of their specifics, so that's why I asked.

Mr. Greenwood stated it also changes the use of the building from previous site plan of warehouse.

Mr. Carnazza stated that's correct.

Mr. Greenwood asked with no improvements being made, the training area you're showing on that map, is that the same designated area that was shown on the site plan that showed the office building?

Mr. McDermott stated I believe so, because we did incorporate some of the wooded area away from the residential house, up on Seminary Hill Road. The training that will take place in those areas typically is quiet, typically are tactical teams just practicing movement through the woods, maybe canines going through the woods. From time to time there may be back in the corner explosive breaching on doors, which is a stand-alone unit, a unit that's reusable. It's not very loud.

Mr. Cleary asked Mr. McDermott to clarify that they wouldn't do any activity in the area where the office building.

Mr. McDermott replied no. It is too close to the houses on Seminary Hill Road. Everything we do would be on the back side of the building. He said there will nothing on the Seminary Hill side in view of any of the neighbors.

Mr. Molloy stated this industry has suffered from its own success. The people that will turn 18 years old this year will have no memory of 9/11. Homeland security has kept all domestic terrorism at bay since 9/11. And now if there had been an event last week, there'd be corporate sponsors lined up to help Paladin and they would be able to accomplish what was set forth on the approved site plan. It's going to take an event like that but this is still a good facility. I think if we concentrate on the training area, it's the training area they've been using for a year and the first responders are available to be trained; it's the corporate sponsors that aren't lining up yet. We heard a lot about the training area last time. He asked Mr. McDermott if they had a helicopter land there in a year.

Mr. McDermott said we did, we had a helicopter land during the SWAT school, which took place in the late summer/early fall of last year.

Mr. Molloy said so one helicopter in one year.

Mr. McDermott replied no there were probably 2 to 3 landings last year. This year so far none.

Mr. Charbonneau asked Mr. McDermott to explain to the board if the board were to waive site plan with respect to this, what would that open up in terms of your ability to train other agencies, what you'll have an entrée to in the homeland security department of defense realm.

Mr. McDermott said as far as first responders, there isn't anything like this in the northeast. There isn't a training facility in the northeast for first responders outside of the police academy or fire academy. And even in most police academies and fire academies they're training in blank environments, we're trying to change that. As far as the department of defense goes, our work with them is pretty limited; we hope to grow that part of the business. We do work with them a couple times a year, again for them they have access to a lot more different facilities than first responders, locally anyway. But this is still a different look for them. They still enjoy coming up here because it's something different and not what they're used to doing.

Mr. McDermott stated I'll address the helicopter question, like we said in the past approval process, it's going to be very limited, it's not something that's going to be the core of our business but it is something that will take place from time to time. We try to be the best neighbors that we can be. We go and knock on all the neighbors' doors surrounding the property. We contact the county and 911. They do a reverse 911 call to a half mile perimeter around Paladin alerting everyone that there is going to be a training evolution going on and that there may be some noise and if there are any questions or concerns please don't hesitate to call. We always call the police department and the sheriff's office just to put everyone on notice and alert them what's going on. To my knowledge there haven't been any instances of a training evolution where this didn't happen. We have had maybe one incident where a helicopter came in last minute. I know that was a great

concern of the board and the Town Board, that's not something we want to thrust upon somebody or surprise anybody with. We try to be good neighbors.

Mr. Meyer stated I have a procedural question for Mr. Cleary. He said I think it's a good use of the property but I'm just trying to get a good handle on what exactly we're waiving. He asked this is an approved plan that does not have the new building on it, correct?

Mr. Cleary responded yes, but it does have additional use of the outdoor training that was not part of it. So you're waiving the site plan requirement to show you the training that he's showing you. The new building really has nothing to do with anything it's just going to be in limbo until they decide to reactivate it.

Mr. Meyer stated then they would have to come back to the board.

Mr. Cleary stated it's now an active, current site plan application, they have to keep it current and could file their building permit tomorrow if they met all other requirements, they'd be ready to go.

Mr. Cote stated the presentation you gave us for the new site plan, that's all the same area that you have talked about because I remember the helicopters were supposed to land on the soccer fields.

Mr. McDermott responded yes.

Mr. Carnazza stated slightly larger training area down at the bottom.

Mr. Cote stated but it's not by the residents.....

Mr. Carnazza responded that's correct.

Mr. McDermott clarified that this isn't a daily thing outside. He said maybe we had training outside last year about a dozen times. Most of the time there were canines. They're not barking they're typically tracking or looking for contraband.

Mr. Greenwood stated that Mr. Carnazza mentioned earlier the training area is larger than what was on the previous map. Can you show us where you made it larger.

At which time, Mr. McDermott pointed to the top right area on the map.

Mr. Molloy stated and that right now is a paved parking lot, all that you have marked in yellow?

Mr. McDermott replied no that's all woods. And again it's away from all the houses and I don't anticipate anything ending up in this area.

Mr. Meyer asked if the residents were using the soccer fields and tennis courts.

Mr. McDermott replied yes, the soccer fields are being used.

Mr. Charbonneau addressed the board and stated obviously the board has in its discretion to waive any aspect of the site plan approval in whole or in part, a suggestion that I could make would be to set this down for a public hearing, given the nature of the use of the premises, to see if the public wishes to be heard on this issue and then entertain the application as to the waiver.

Mr. Giannico asked is there any plan to disturb that extended area or will it stay as is?

Mr. McDermott answered it's going remain as is, we're not touching anything.

Chairman Gary asked Mr. Cleary if there was a previous public hearing?

Mr. Cleary stated we had a public hearing about a year ago, and no one was present at the public hearing.

Chairman Gary asked if a public hearing was necessary.

Mr. Cleary said it is not necessary, but Mr. Charbonneau's point is well taken. It's been another year of operations and we don't know if it has bothered the neighbors.

Mr. Lepler stated as the owner of the property, I would appreciate if the board took the advice of counsel and have the public hearing.

Mr. Greenwood said since the training area has been increased and moved closer to the residential properties, to be fair and safe we should have a public hearing and consider the waiver after that point.

At which time, a discussion ensued on whether or not a public hearing should be set.

Chairman Gary said to schedule a public hearing.

MINUTES - 4/9/2014

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

Mr. Greenwood moved to adjourn the meeting at 8:10 pm. The motion was seconded by Mr. Giannico with all in favor.

Respectfully submitted,

Rose Trombetta