

APPROVED

HAROLD GARY
Chairman

BOARD MEMBERS
CARL GREENWOOD
JOHN MOLLOY
JAMES MEYER
ANTHONY GIANNICO
CRAIG PAEPRER

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

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

PLANNING BOARD MINUTES MAY 14, 2014

PRESENT: CHAIRMAN, HAROLD GARY, CARL GREENWOOD, JOHN MOLLOY,
JAMES MEYER, ANTHONY GIANNICO, CRAIG PAEPRER

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
Paladin Center, LLC.	55.10-1-1	1	P.H.	Public Hearing Closed & Planner to Prepare Resolution.
Itzla Subdivision	55.14-1-6	1-8	Sketch Plan	No Board Action.
Lockwood & Dominger	44.10-1-1	9	Extension	6 Months Extension Granted.
Minutes – 4/9/2014		9		Heldover.

The meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Rose Trombetta

PALADIN CENTER – 39 SEMINARY HILL RD – TM – 55.10-1-1 – PUBLIC HEARING

Mr. Carnazza stated all of his comments have been addressed. He said this is for a waiver.

Mr. Franzetti stated he had no additional comments.

Mr. Cleary stated he had no comments. This is on for a public hearing.

Chairman Gary addressed the audience and stated this is an open public hearing and if anybody in the audience wished to be heard.

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

Chairman Gary asked the Planner to prepare a resolution.

ITZLA SUBDIVISION – 9 MECHANIC STREET – TM – 55.14-1-6 – SKETCH PLAN

Mr. Carnazza stated this is a two lot subdivision on Mechanic Street in Carmel. The location map shows a road to the western side of the property, (left side of lot 2) and if that is a road, which is on the approved subdivision, they currently have a senior housing project in front of us adjacent to him, so to the left of that is a senior project that's not yet approved, but if that is a road the setback envelope goes to forty feet on all four sides. Lot one and two require variances from the Zoning Board of Appeals. With regards to lot area, they have approximately a third on each of the two lots. Lot width is deficient on both lots and the frontage on lot two is deficient.

Chairman Gary asked is this adjacent to that subdivision that is before us?

Mr. Carnazza replied no, the subdivision is approved and the senior housing is approved, but it has not been filed yet. He said if the road is going to be built there, that makes it a front yard, which is the forty foot setback, if it's not being built, it's a twenty five foot setback.

Mr. Molloy asked if the road isn't going to be built there, then he only has a little bit of frontage on Mechanic Street, right?

Mr. Carnazza replied that's correct. That's the variance I wrote and it's going to be up to them and the adjacent project to tell us what variances are required.

Mr. Molloy asked if the subdivision was approved.

Mr. Carnazza replied the subdivision was approved approximately 15 years ago.

Mr. Cleary stated that there's a site plan that this board approved for a senior project that's next door. So I believe the subdivision was expired, I don't think it was ever filed.

Mr. Paul Lynch of Putnam Engineering, representing the applicant stated it was filed.

Mr. Cleary stated it was filed, but nevertheless what has subsequently been before this board the RPK senior housing project.

Mr. Greenwood asked if it is still current?

Mr. Cleary replied yes it is. And it has been before you to maintain its approvals.

Chairman Gary asked Mr. Lynch if had an area map that shows all the subdivisions.

At which time Mr. Lynch displayed the maps for the board members.

Chairman Gary replied what you're saying is his plat depends on somebody else getting.....

Mr. Cleary stated Mr. Carnazza's interpretation is it depends on what is going on next door.

Chairman Gary asked should that be?

Mr. Cleary replied we've asked Mr. Lynch to do that to clarify that for us.

Chairman Gary stated I know about RPK, I don't know if anybody else knows.

Mr. Praeper stated I actually visited the site and I met that gentleman there and he updated me on a few things.

Mr. Lynch stated back in 1999 RPK had gotten an 8 lot subdivision approved. It didn't meet all its conditions of approval until somewhere around 2002-2003. During that time, Paul Itzla had filed for a 2 lot subdivision application and since RPK was doing an 8 lot subdivision, we had the following layout. (At which time Mr. Lynch displayed the layout to the board). We had developed this layout that was making use of what was our proposed Panking Drive which would become a town road and that would be our frontage for our lot over here and we wouldn't need any variances at the time. Shortly thereafter once RPK has filed their plat and came into the town and filed for a senior housing project, as far as we know, based on current tax map the lots have not yet been merged back into a single lot. I think the issue you're wondering about has to do with the fact that the subdivision has been merged back into one lot which I think was a condition of the RPK approval. So we're proceeding based on it being senior housing next door.

Mr. Cleary stated then my variances are correct.

At which time Mr. Lynch displayed further renderings and stated this is how the subdivision would exist next to the senior housing project. And our frontage then would be off of Mechanic Street and we would need the variance because we wouldn't have the proper frontage and we would need the area variance for the two lots. And I think we would need the width also.

Mr. Praeper stated doesn't Mechanic Street as it exist today change? Doesn't it literally become the front yard for some people?

Mr. Lynch stated Mechanic Street actually runs through and part of the RPK approval is that Mechanic Street and this intersection was going to get relocated and realigned. So that's what we are showing on this composite drawing.

Mr. Molloy asked so did any of that happen?

Mr. Lynch replied it has not happened yet. I think that they have had an extension of their site plan.

Mr. Cleary stated it has been approved and that intersection alignment is being worked by the various agencies in charge of roadways, so there may be some adjustments to that but the RPK site plan takes into account that roadway re-alignment.

Mr. Molloy asked does this applicant want to wait until he finds out if there is a road next door?

Mr. Cleary stated it benefits him to have the road next door. That's not going to happen.

Mr. Cleary stated this is what RPK is going to build.

Mr. Carnazza stated if they do build it then he is going to need to change the variances as a subdivision not as a site plan. If that road goes in then your side yard becomes a front yard so your setback goes from twenty-five to forty.

Mr. Carnazza stated if they do decide to go back to the subdivision then they need to get further approvals and they're going to have to go to the Zoning Board.

Mr. Cleary stated this is the more significant series of variances.

Chairman Gary stated so what he needs to do now is get this to go through and to get his variances and move on.

Mr. Carnazza stated attempt to get his variances.

Mr. Greenwood stated they have already made that assumption by changing what they were sub-dividing. My real question is the fact that you may have had an application back prior to the zoning change to three acre zoning, but in the process of RPK why did you not continue. Now, all of a sudden, you're coming back to the board years later, when you could have continued this subdivision.

Mr. Itzla addressed the board and stated it would seem like an irregular lot, until they talked about re-aligning the road. He said by re-aligning the road it will seem like a corner lot.

Mr. Greenwood stated the point in the process of you dropping your prior application; the Town Board changed the zoning regulations to 3 acre zoning throughout the town.

Mr. Itzla stated a lot has happened all at once. He said he lost track of it for a while.

Mr. Greenwood stated that's my only problem with it is the fact that you know RPK was changing or proposing to change. He said you would have been better off keeping your application current from the zoning change.

Mr. Carnazza stated these variances are next to impossible.

Mr. Greenwood stated we've had and I remember it well, a very old lady asking to do a sub-standard subdivision after the zoning change and she never got it. I'm not saying you don't have the right to go the ZBA, it's just that the town made a law.

Mr. Carnazza stated the hurdle has gotten much higher.

Mr. Meyer asked the variance they're seeking is to go from three acre zoning to.....

Mr. Carnazza stated they're looking for out of a 120,000 square feet, they have 32,320 and 32,699 so they're looking for an approximately 87,000 square foot variance for both of them so that's about two thirds variance.

Chairman Gary asked Mr. Franzetti for his comments.

Mr. Franzetti stated in we have not reviewed the documentation because we knew that there were variances that needed to be looked at before we looked at it, so we're waiting to see what the decisions are from the Zoning Board and Planning Board to move forward with this project. We did provide the applicant's engineer in our memo to the board what we would be looking at if we were to review it so at least they have it, if they are moving forward granting the approvals in zoning, what the engineering department would be expected to review. It's not necessary for me to go through that with the board tonight.

Mr. Cleary stated because of the configuration of the subdivision, shape of the property, it's an unusually shaped flag lot, which we try to avoid, if we can. He really has no options other than what he's proposing, but the primary issue is the significant variances that are required to do what he wants to do. Secondly, the Planning Board spent a lot of time working on the realignment of that intersection. It was a fairly difficult problem to solve and it's not yet solved and there is still a lot of tweaking that needs to be done. What we're proposing now is to add another driveway into an area

that is evolving. That's yet to be determined if that is a good or a bad thing, so we asked Mr. Lynch to provide information on site distances and geometry and grades so we can make sure that the additional driveway isn't impeding all the work that has gone into that intersection configuration. So that's more information that would have to be provided to make a determination regarding that new driveway. Lastly if we look at something like this, it really does become an infill subdivision and it does have an effect on the adjacent property like RPK, so items like screening and landscaping and buffering what they're doing particularly on undersized properties becomes particularly important. So the configuration of the home, where it's sited or those screening issues is something we'd want to know about earlier rather than later because we're dealing with undersized properties.

Chairman Gary said to Mr. Cleary that you said in your presentation that's the best he could do. And it doesn't necessary mean that it should be done because it's the best that he could do?

Mr. Cleary stated not at all, Mr. Chairman, but there's no other way to put those lines through the property that wouldn't result in a flag lot on one side or on the other side and again one of the problems is the existing home pushes that lot to the left because he's got a building that's already there, so we can for example split the difference and have a little bit non conformity on each side. He has one very non-conforming lot with respect to the lot width frontage on the left because that home is already a building on the other side so that's what I mean there's no other way to put the line through the property, but that doesn't make that a good line. It's just that's the best that he can do given his circumstances.

Mr. Greenwood stated what we need to consider is, even though there are road improvements with RPK there is no guarantee that those are ever going to get done.

Mr. Cleary stated and the important thing to know is that RPK is one of the funding sources to make that happen.

Mr. Greenwood said what I mean by that is that is putting one more driveway in an area that we all know is a sub-standard road that we are trying to repair on a project, there's no guarantee that that's ever going to happen.

Mr. Cleary said my point is it's not only a state county or state funded roadway improvement; it's being funded by RPK which is a private developer and could go bankrupt tomorrow and there would be roadway improvement.

Mr. Greenwood stated or they could go back to the seven lot subdivision and nothing happens to that road at all.

Mr. Cleary stated that's exactly right.

Mr. Molloy stated that public hearing was well attended by RPK.

Chairman Gary stated I'm always troubled when he says that's the best he can do, that's not the best he can do. The best he can do is to put something that meets standards and planning that would be the best for the town and best for whomever goes into the property.

Mr. Carnazza stated the existing lot doesn't meet today's standard.

Mr. Greenwood stated when the town changed the zoning to what it is and every lot along there is not meeting standards but to subdivide into even worse conditions....

Mr. Carnazza stated but he couldn't because they didn't keep next to him what they were doing.

Mr. Greenwood said no but he could have come back with something like this knowing full well they weren't going to build that road in the process and kept his application going.

Chairman Gary said I don't know how to say it but we really should say this is what meets standards. We can do variations but we're not going to keep varying something in order to do something with it. He said we don't know what's going to happen than we shouldn't talk about it.

Mr. Giannico stated significant variances are required. We always talk about creating a bad situation.

Mr. Molloy stated the Town Board has the authority to change the zoning there, but to bring to us a piece of property that has a third of the required area that's a substantial variance.

Chairman Gary stated from a planning standpoint of view can you give some direction which way the board should go, what process we should take.

Mr. Cleary said right I think the applicant had to hear your opinion of this subdivision there's no question that's important for him to hear this evening. What we always do for every application is that we look at it and we find ways to make it better. In this case there is no way to make it better. It is deficient and by adjusting a line it's not going to improve it one way or another. He said he needs the Zoning Board to act favorably on this. What you've said to him tonight is that's a hard hurdle to clear. He potentially can improve on the driveway location but that may be a useless exercise if you don't have anything worth considering.

Chairman Gary said the board can just say this application can't apply or we can send it to the Zoning Board without recommendation. We can do one of those two things.

Mr. Cleary said as you know, Mr. Chairman, an applicant can make their way to the Zoning Board without you doing anything; they have the right to do that.

Chairman Gary stated but they should have it come from this board first. Wherever it goes, that board should know what this board feels about it.

Mr. Cleary stated absolutely, and I think the record of tonight's meeting makes it very clear of your opinion in this application.

Mr. Meyer stated if we send him, doesn't that set a precedent.

Mr. Cleary stated it doesn't, because procedurally the procedure we have in the process is to stamp it denied and send it. It is an administrative act. It bears no recommendation or endorsement unless you choose to send it with a recommendation or endorsement. So just stamping it and sending it to the Zoning Board is an administrative step.

Chairman Gary stated and if you don't send it with any kind of favorable recommendation than the Zoning Board knows that. That's the choice or we could just send him nowhere.

Mr. Carnazza stated but if you send him nowhere then he can go on his own.

Mr. Cleary said and that sends a message to the Zoning Board as well.

Mr. Greenwood moved to deny to the ZBA with no recommendation and to include the minutes of this meeting. The motion was seconded by Mr. Meyer.

Mr. Molloy stated for point of information, do we say that we're not making a recommendation or do we just not make a recommendation.

Mr. Greenwood stated I don't want to get into this discussion necessarily, but we might as well. Because there has been plenty of times an applicant has taken our denial and has taken it to another board and said it was a positive recommendation. If you remember one case where we sent a negative recommendation and we were criticized for influencing the ZBA, so in my opinion I don't think we should send anything to the ZBA with any recommendation at all, ever. Because if you can't, in the case of you're not in favor of something, send something negative, then why are we sending something positive? It should just be because aren't we influencing the ZBA in a positive fashion, it should be a denial to the ZBA, no matter what applicant is in front of us. This has nothing to do with you it's just a procedural thing. I do vividly remember sending that negative on and we were criticized for it.

Mr. Molloy stated I'm not saying a negative but we should say that it's without a recommendation. That we should say something positive, it's like if you look for something and you don't find it, you don't know if it exists or not.

Mr. Cleary stated as you know, on referrals to the ZBA, often carry with it a positive or a negative recommendation. We have also sent things to the Zoning Board without anything, no comment at all and it was up to them, the Zoning Board to decipher that on their own. That's perfectly within your authority.

Mr. Molloy stated and we could include the minutes.

Mr. Paepfer stated shouldn't the Zoning Board hear our view of it?

Mr. Cleary said so what the referral really refers to is, if the Zoning Board grants the variance, we like the plan, that's a positive recommendation, it's not Zoning Board please grant the variances. You're not advocating on behalf of an applicant, what you're doing is giving a message that if you granted the variances, that's okay with us; that's a positive recommendation. A negative recommendation is if you grant those variances we still have a bunch of technical variable issues with the layout of the site. That's what it is; it's not an influence of their mandate to evaluate a zoning variance at all.

Chairman Gary stated and we could send no recommendation and we don't send him anywhere and we tell him to come back to us with something that's prepared differently, we can do that. He said we don't like what it is and it's up to them to leave here tonight to go and find a way to make that and come back to the Planning Board wherever they go, they work on that so that they, you clearly understand what this board is feeling on that, they won't come back here until they have changed that and they try again to get through. It doesn't mean that when they go to the ZBA and they get their variance that this board is going to approve it. This board still has qualms.

Mr. Molloy stated if Mr. Greenwood changed his motion I would be inclined to vote for it, if it was similar to what the Chairman just said.

Mr. Giannico said there's a motion on the table and we have to vote on that first.

Mr. Greenwood stated or I could withdraw it.

Mr. Meyer asked do you want to rephrase or withdraw it?

Mr. Greenwood said I want to withdraw it. Mr. Greenwood withdrew his motion.

Mr. Meyer withdrew his second.

Mr. Carnazza stated it's their option to do what they want to do to satisfy this board.

Chairman Gary asked if everyone was comfortable with that.

All the board members agreed.

Chairman Gary stated the applicant needs to try to influence the ZBA, if they want to go to the ZBA. He said the ZBA will know how this board feels, they will find out in some kind of way. In fact, I will tell Mr. Cleary to tell them. Do you understand the process? He said when you get it all set notify the secretary and we will put you back on the agenda. But understand that the way it stands now, it's going to be hard road to come back to get this board to get it approved. You need to get something done and if you want to go to the ZBA the ZBA has to influence this board that that is a workable solution.

**LOCKWOOD & DOMINGER SUBDIVISION – GLENNA DRIVE – TM – 44.10-1-1 –
EXTENSION OF FINAL SUBDIVISION APPROVAL**

Mr. Carnazza stated he had no objection to the extension.

Mr. Greenwood asked if this was their second extension.

Mr. Lynch replied yes, it is.

Mr. Cleary stated he had no objection to the extension. He asked Mr. Lynch to explain the reason for the request.

Mr. Lynch stated we are actually finalizing the design criteria with NYC DEP and getting our storm water pollution prevention plan approved and that's been the delay.

Chairman Gary stated that this board took its worst hit from the Town Board because of this subdivision. That's not a good thing. The Chairman asked Mr. Cleary to refresh everyone's mind, especially for the new board members.

Mr. Cleary stated there were open development issues and questions over property lines. The primary objectors were the residents that lived in the front of the property and there was a legal dispute about the rear property lines and that was the basis for them to object. At the time the Town Board was evaluating its policy on open development and whether or not open development was a good planning tool or not and should it have been approved.

Mr. Praeper asked how long would this extension be for.

Mr. Cleary asked are you're asking for six months?

Mr. Lynch replied yes.

Mr. Greenwood moved to grant extension of subdivision approval. The motion was seconded by Mr. Paepre with all in favor.

MINUTES – 4/30/2014

Heldover

Mr. Paepre moved to adjourn the meeting at 7:40 p.m. The motion was seconded by Mr. Greenwood with all in favor.

Respectfully submitted,

Rose Trombetta