

MINUTES OF THE AUGUST 13, 2014 PLANNING BOARD
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Alter, M. Giancarlo, L. Calabria, Mayor M. Arnowitz
J. Miano, F. Franco, J. Traudt, Z. Horvath, Councilman T. Kelley

MEMBERS ABSENT: E. Lichtstein, M. Kates

EMPLOYEES PRESENT : Nylema Nabbie, Esq., Board Attorney
Christopher Statile, P.E., Board Engineer
Caitlin Chadwick, Acting Deputy Secretary

Chairwoman Calabria called the meeting to order at approximately 7:35 pm with a reading of the Open Public Meetings Statement.

OPEN TO PUBLIC (for matters not on the Agenda):

As no one wished to speak, the meeting was closed to the public.

MINUTES:

The *July 9, 2014* meeting minutes were approved by the Board.

The *July 24, 2014* special meeting minutes were approved by the Board.

BILLS:

Concerns put forth by Planning Board Liaison Kelly regarding the Planning Board's annual budget were discussed at length and satisfied.

Invoice from Gittleman, Muhlstock, Chewcaskie, LLP was approved by the Board for payment.

RESOLUTIONS:

Resolution No.2014-13, Kevin & Jennifer Cortolano; Block 1625, Lot 8; 18 William Street Bulk variance for a new, attached garage was approved by the Board.

Resolution No. 2014-12; Patricia Lucia; Block 1910, Lot 26.01; 173 Cedar Lane Appeal the decision of an administrative officer was approved by the Board.

PUBLIC HEARINGS:

*PZ-09-13; Laurjo Construction Co. & Joseph Gassib; Block 1109, Lots 2 & 3; 46 Beechwood Drive; **Minor Subdivision with bulk variances to relocate dividing line between two existing lots***

Counsel for the Applicant – Raphael G. Jacobs, Esq.

Due to the applicant failing to submit revised plans 10 days in advance of the scheduled hearing, this application was carried to October 28, 2014.

***PZ-04-14; Kevin & Janine Tedesco; Block 1516, Lot 3; 23 Oakland Street
Variance Application for front yard setbacks & FAR for 2nd story addition***

Lisa Cohen, R.A. of LMC Architecture, 21-03 Radburn Road, Fair Lawn, NJ was sworn in to testify. Ms. Cohen prepared the architectural plans for this application. The plans are originally dated 4/21/2014 and were revised on 5/1/2014. Ms. Cohen explained that the Tedesco's intention is to build a partial addition onto their existing ranch style home, as well as a front porch. The home currently has a garage and a car port. The Tedescos plan on removing the car port and expanding the existing garage, which would extend about 5 ft. from the side of their house. The front garage will line up with the existing facade of the garage. Ms. Cohen explained that all of the work being proposed would actually reduce the current impervious coverage.

Vice Chairman Giancarlo made a motion to approve this application as is, and Ms. Traudt seconded that motion. Mr. Alter, Mr. Frano, Ms. Miano, Ms. Traudt, Mr. Horvath, Vice Chairman Giancarlo, and Chairwoman Calabria all voted in favor.

***PZ-23-11; Donald Oriolo; Block 2004, Lots 2 & 11; 23 Ruckman Road
Minor Subdivision Application to create two lots; request to extend the 190-day filing period***

Counsel for the Applicant – Mr. Donald M. Pepe, Esq.

Donald Oriolo, 23 Ruckman Road, Hillsdale, was sworn in before the Board to testify.

Mr. Oriolo is seeking to extend his filing period of a previous subdivision approval in order to file his subdivision plat with the County Recording Officer. The Board questioned Mr. Oriolo as to what took him so long to take action on this matter. He stated that his previous attorney, Mark Carter was handling it and he was under the impression that everything was taken care of. Mr. Oriolo explained that in May 2013, he hand delivered a mylar drawing of his subdivision to previous Board Attorney, Mr. Harold Ritvo's Hackensack office. According to Mr. Oriolo, Mr. Ritvo stated that the Developer's Agreement would be signed at the June 2013 meeting of the Hillsdale Planning Board.

Board Attorney Nabbie confirmed that the filing period is 190 days from the date of adoption of the resolution for Minor Subdivisions.

Board Engineer Statile confirmed that he is the one who should be signing the plat mylar, not Mr. Ritvo. Mr. Statile elaborated that in the past, applicants have always brought him their plats to review and sign, not the Board Attorney. Mr. Oriolo stated that Mr. Ritvo requested the plat (not during any of the public hearings) and sometime after he delivered it to him, it was the opinion of Mr. Oriolo that Mr. Ritvo misplaced it. Furthermore, Mr. Oriolo stated that in July 2013, he left copies with Mr. Ritvo of deposits he made to his escrow account, stating that it served as proof of his intention to continue with the previously approved subdivision. Mr. Oriolo stated that he did not see a Developer's Agreement from Mr. Ritvo until the end of May 2013.

The Board asked Mr. Oriolo why he didn't attend any of the Board meetings over the past year and raise his concerns about the filing period during the session that is open to the public. Mr. Oriolo repeated what he previously stated.

Ms. Nabbie recommended that the Board proceed in one of the following three ways:

1. Allow the applicant to give a cursory review of the history of the application tonight, require he publish a 200-ft. notice, and have him return before the Board at a later date where, if there are no objections, the Subdivision Resolution can be re-adopted.
2. Take no action and require the applicant to re-apply for subdivision approval following the normal notice procedure to the public.
3. Grant extension of the 190-day filing period under the Permit Extension Act, since it is subject to interpretation on this matter. The Plat must be submitted to the Board Engineer for review and approval.

Ms. Nabbie elaborated that if the applicant was granted an extension of the filing period, it would terminate on 12/31/2014.

Mr. Pepe stated that it would be difficult to have Mr. Oriolo return before the Board with a new application of the same application because it could be considered Res Judicata. He elaborated that subdivision was previously granted by the Board. Ms. Nabbie disagreed with Mr. Pepe's opinion.

Ms. Nabbie explained to Mr. Oriolo that in the event he is required to notice the public and return to the Board at a later date, he would need to list all the variances that apply and state that he was previously granted subdivision approval. Mr. Pepe stated that there is an existing resolution and Mr. Oriolo does have valid approval. Mr. Statile stated that the resolution is not valid because Mr. Oriolo did not meet the conditions of approval. Specifically, Mr. Oriolo never filed the required plat.

The Board asked Ms. Nabbie what purpose the 200 ft. notice would serve in this situation. Ms. Nabbie explained that the 200 ft. notice would protect the Board from any members of the public arguing that this Board acted outside of its statutory limits. The Board then questioned Mr. Oriolo again as to why he did not attend any Hillsdale meetings before the 190 day filing period expired. Mr. Oriolo said that he left the matter in the hands of Mr. Ritvo and Mr. Carter, and believes Mr. Ritvo lost the mylar drawing. Mr. Oriolo further claimed that the previous Deputy Secretary to the Board did not know Mr. Ritvo's whereabouts. Mr. Oriolo stated that he was not sitting idly by; he was in touch with Borough Attorney Bernstein and even Mayor Arnowitz, regarding this matter.

At this point, the Board asked Ms. Nabbie when she first heard about the request Mr. Oriolo was making. Ms. Nabbie stated that she first heard about this in March 2013, when the first of four attorneys contacted her. Ms. Nabbie confirmed that the attorney handling this prior to Mr. Pepe was Mr. Carter. Ms. Nabbie elaborated that she was never in contact with Mr. Oriolo himself, as he was always represented by Counsel and it would have been unlawful to do so. Furthermore, Attorney Siobhan Bailey contacted Ms. Nabbie as she had comments regarding the subdivision deed. During this interaction, both parties realized Mr. Oriolo's submission was past the 190 day filing period. Mr. Statile stated that he does not get to see the subdivision deeds until the plat has been filed.

The meeting was opened to the public. As no one from the public wished to speak, the meeting was closed to the public. Mr. Oriolo again stated that the large sums of deposits he left with the Borough, along with his correspondence with several attorneys, should show his intent to continue with the subdivision.

Mr. Alter stated that it is feasible that Mr. Ritvo could have misplaced the mylar drawing.

Ms. Nabbie confirmed that the Board did approve a Developer's Agreement as well as a Resolution.

Mr. Alter made a motion to have Mr. Oriolo return to the Board at an appropriate time after he notifies the public. Mr. Giancarlo seconded Mr. Alter's motion. Ms. Nabbie elaborated on the motion, stating that the Board will hear a cursory review of the application tonight and approve the resolution at a later date after the applicant notifies the public, in the event that there are no objections.

A draft resolution will be presented to the Board for review on August 26.

Ms. Miano asked Ms. Nabbie which option would protect the Board more, option 1 or option 2. Ms. Nabbie replied that she believes both would protect the Board equally.

Mr. Alter, Mr. Franco, Ms. Miano, Ms. Traudt, Mr. Horvath and Vice Chairman Giancarlo voted in favor of this. Chairwoman Calabria voted against it.

Mr. Pepe confirmed that he will send Ms. Nabbie an affidavit of service.

The meeting was adjourned at 9:31pm.

Respectfully submitted,

Caitlin Chadwick
Acting Deputy Secretary