

MINUTES OF THE JULY 24, 2014 PLANNING BOARD
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Lichtstein, M. Kates, F. Franco, J. Miano, J. Traudt, Z. Horvath
Councilman Kelley, E. Alter, L. Calabria

MEMBERS ABSENT: M. Giancarlo, Mayor M. Arnowitz

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.

PUBLIC HEARINGS:

PZ-07-13; Caliber Builders; Block 506, Lot 1

Final Site Plan Approval for construction of age-restricted, single-family dwellings

Counsel for the Applicant – Siobhan Spillane Bailey, Esq.

Counsel for the Northgate Condominium Association Opposition – John Lamb, Esq.

Mr. Lamb brought to the Board's attention various concerns he had regarding this case: his previous requests to have Mr. Darmofalski appear before the Board as a witness, the cancellation of the May 27, 2014 meeting, and the exhibits that had been labeled at Caliber Builders' previous hearing.

Mr. Lamb called his first witness, Mr. John A. Thonet, P.E., P.P., of Pittstown, NJ who was sworn in to testify as an expert in engineering. Several documents were marked. They are as follows:

- Exhibit O-11:** "Environmental Planning & Engineering Review of Application of Caliber Builders for Final Site Plan," dated 8/12/2013.
- Exhibit O-12:** "Summary Table of Changes to Caliber Builders Site Plan with Notes & Comments," dated 5/26/2014, revised 7/24/2014.
- Exhibit O-13:** "Analysis of Substantial Changes to Caliber Builders Preliminary Site Plan," undated.
- Exhibit O-14A:** A Colorized Rendering of the Landscape Plan from the Final Site Plan, originally dated 8/10/2007, revised to 1/25/2011.
- Exhibit O-14B:** Un-Colorized Landscape Plan from the Final Site Plan, originally dated 8/10/2007, revised to 10/21/13, Washington Twsp. improvements removed.
- Exhibit O-14C:** Preliminary Site Plan without any revisions, dated 8/10/2007.
- Exhibit O-14D:** "Utility and Grading Plan" sheet from the Final Site Plan, originally dated 8/10/2007, revised 1/26/14.

Exhibit O-15: Page 7 of “Stormwater Management Report” submitted by ENTEC, as revision #1 – 1/16/2008, revision #2 – 3/17/2009.

Mr. Thonet stated that 4 significant changes were made between the Preliminary Site Plan and the Final Site Plan. To support his claim, Mr. Thonet used the most up-to-date version of the Final Site Plan (1/26/2014) as well as outdated versions of the Final Site Plan which were no longer accurate portrayals of how the applicant intends to proceed. Among the arguments Mr. Thonet made as to why significant changes exist was one that the amount of trees being proposed for reforestation along the Washington Township border was greatly reduced. When the Board questioned Mr. Thonet as to how many trees were proposed in the Preliminary versus the Final Site Plan, Mr. Thonet did not have any exact numbers. Mr. Thonet then stated that the applicant cannot begin any construction in Hillsdale, even if Hillsdale grants Final Site Plan approval, without first receiving Final Site Plan approval from Washington Township as well. Mr. Thonet told the Board that in the past when they approved Caliber Builders’ Preliminary Site Plan, they were approving it for both Hillsdale and Washington Township. This was incorrect information. Mr. Statile and Ms. Nabbie confirmed for the Board and members of the public that the Hillsdale Planning Board does not have jurisdiction to approve or deny anything in any other municipality.

Mr. Thonet then stated that the Planning Board did not know the nature of permits that Caliber Builders needed during the Preliminary Site Plan application hearings. The Chairwoman asked Board Engineer Statile why that may occur. Mr. Statile informed everyone that the Land Use law allows applicants three years from the date of Preliminary Site Plan approval to obtain permits prior to Final approval, and it was dependent on the nature of the Board’s Preliminary approval what permits are necessary going forward. Furthermore, it is permitted for the Board to include any conditions for Final approval.

Mr. Thonet then spoke on the changes in the drainage system, continuing to reference out of date versions of the Final Site Plan. According to Mr. Thonet, the drainage system for the buildings are insufficient and under-designed because there are 23 roof runoff detention systems required in the Preliminary Plans but only 22 in the Final Site Plan. It was later determined that the drainage report actually only called for 22 drainage systems and that the stations collect 100% of the runoff.

Mr. Thonet returned to the subject of the NJDEP Fish & Wildlife recommendations for the calendar timing of the removal of trees. Mr. Statile asked Mr. Thonet if NJDEP allows the removal of trees that may contain Indiana bat habitat. Mr. Thonet answered yes, it does; NJDEP protects potential bat population by requiring a 150 ft. buffer and setting specific time frames as to when you can cut trees down.

Mr. Thonet questioned how the determination was made as to the limits of the old orchard lands represented on the site plans, and whether the Board had an opportunity to weigh in on the matter. Mr. Statile asked Mr. Thonet if Fish & Wildlife staff were barred from coming onto the property to make their own determination of the orchard limits. Mr. Thonet responded no, they were not. Mr. Statile stated that the Board and Mr. Thonet’s client both received legal notice and therefore could have provided their opinions to NJDEP Fish & Wildlife if they were interested in doing so. Mr. Statile asked Mr. Thonet if he wants the Board to take back their previous approval of the Preliminary Plan. He further asked Mr. Thonet if the disturbance limits changed from the

Preliminary to the Final Site Plan. Mr. Thonet responded the actual disturbance limits had not changed.

The relocated scour hole was then discussed. Mr. Statile explained to the Board that a scour hole is, in layman's terms, a pipe outlet that stormwater discharges onto rough stones to reduce its velocity. It was confirmed that the function, nature of its use, and quantity of stormwater to the scour hole had not changed, and the water still drains to the same watershed/stream. The only difference is that it is 150 ft. away from the wetlands. Mr. Statile confirmed that the pipe was moved laterally twice and then shortened, but its function remains completely the same.

At 10:00pm, Ms. Bailey began her cross-examination of Mr. Thonet. Ms. Bailey asked Mr. Thonet to read aloud statute NJSA 40:55d-49 (b) which clearly states that after the date preliminary approval is granted, the applicant has three years to obtain necessary permits and approvals. Ms. Bailey then asked Mr. Thonet to read paragraph #10 of the resolution from Preliminary Approval of the application, which stated that the application is to be undertaken in phases and that Washington Township is not to be included in Phase 1. Ms. Bailey asked Mr. Thonet to read from several additional documents, including note #15 of the Final Site Plan which confirmed there are two phases of the application, condition K of the resolution of Preliminary Approval, and #17 on Page 7 of Mr. Statile's Sept. 10, 2007 report.

Mr. Thonet then stated that no work is to be done in NJDEP regulated areas until Washington Township approves the site plan application in their jurisdiction, otherwise it is a violation. Ms. Bailey asked Mr. Thonet what if the applicant received Hillsdale approval and only did work in Hillsdale, would that be a violation? Mr. Thonet responded in his opinion yes, because the applicant needs approval in both towns before work is done in either town. Ms. Bailey then asked Mr. Thonet to read paragraph 16 from Exhibit A4, an NJDEP Stream Encroachment Permit dated 12/27/2007, and tell her whether or not that was the restriction he was referring to. Mr. Thonet confirmed that it was the restriction he was referring to. The various ways in which this document could be interpreted was then discussed and debated. Ms. Bailey stated she is not disputing the condition, only Mr. Thonet's interpretation of the permit condition. All agreed it is a condition of the NJDEP permit. Mr. Statile stated he will have a discussion with NJDEP to confirm the interpretation of said permit. The cross-examination of Mr. Thonet ended with him reading Condition 3c on Page 3 of permit "Transition Area Wetlands Waiver for Redevelopment," dated June 9, 2008.

At this time, the meeting was re-opened to the public. Ms. Theresa Pendergast, member of the Hillsdale Environmental Commission and resident of 281 Ell Road in Hillsdale came before the Board to express her concerns about this application. She stated that when Northgate Condominiums were built, her basement became flooded and explained that she is looking for a guarantee that she will not get additional water in her home. Mr. Statile addressed Ms. Pendergast's concern by informing her that although he cannot give any guarantees, his sole purpose on the Board is to protect all residents surrounding this development.

Mr. Hogrefe of 746 Pascack Road in Washington Township asked Mr. Thonet questions regarding the infiltration system. A plan created by ENTEC dated 9/16/03 entitled "Plan/Profile of Proposed Improvements to Pascack Road" was labeled Exhibit H3.

Finally, Jill Ronda of 273 Ell Road, Hillsdale expressed that she has had terrible problems with water and asked if residents will be able to have any recourse with the town itself, should she experience additional water problems at her home. Board Attorney Nabbie stated that she cannot speak for the Borough, but explained to Ms. Ronda that any resident has the right to file an appeal to any application up to 45 days after its resolution has been published.

At 11:10pm, the meeting was closed to the public.

Ms. Nabbie announced that Caliber Builders will continue the application hearings at the Board's August 26, 2014 and September 23, 2014 meetings. The applicant was not required to re-notify the public.

Mr. Lamb expressed his desire to have Mr. Darmofalski testify as well, regarding his soils report. Ms. Bailey stated that she and her client have withdrawn the soils report conducted by Mr. Darmofalski and it is therefore no longer relevant or part of this case. Ms. Bailey further stated that if Mr. Lamb wants to cross-examine Mr. Darmofalski, he has the right to.

Mr. Lamb confirmed that he will prepare to cross-examine a witness from Langan Engineering.

The meeting was adjourned at 11:34pm.

Respectfully submitted,

Caitlin Chadwick
Acting Deputy Secretary