

MINUTES OF THE MARCH 28, 2016 PLANNING BOARD
SPECIAL MEETING
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Lichtstein, J. Miano, F. Franco, M. Kates
Vice Chairwoman Calabria, Z. Horvath

MEMBERS ABSENT: Councilman F. Pizzella, Mayor D. Frank, Chairman M. Giancarlo, G. Biener

EMPLOYEES PRESENT: Nylema Nabbie, Esq., Board Attorney
Eric Keller, P.E., Conflict Board Engineer
Caitlin Chadwick, Deputy Secretary

Acting Chairwoman Calabria called the meeting to order with a reading of the Open Public Meetings Statement at approximately 7:05pm.

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

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

DISCUSSION:

PZ-23-11; Donald Oriolo; Block 2004, Lots 2 & 11; 23 Ruckman Avenue

Board Attorney Nabbie explained that Mr. Oriolo was granted subdivision approval in 2012. As a condition of approval, Mr. Oriolo was obligated to remove the house on 23 Ruckman prior to building a new house on Rawson Court, which he did not do. The Board discussed authorizing Mr. Oriolo to sell the house on Rawson Court if he first demolishes the house at 23 Ruckman. He must also post an escrow with the Borough to guarantee the house at 23 Ruckman gets demolished. Mr. Oriolo must complete this within 65 days.

Mr. Oriolo was then sworn in to testify and stated that the reason he has not yet demolished the house is because he currently resides there and cannot afford to build two homes simultaneously. However, he stated that he fully intends to demolish the house. As Mr. Oriolo is represented by counsel, Dr. Lichtstein asked why his attorney was not present. Ms. Nabbie stated that she conversed with Board Engineer Statile regarding this issue and he agreed that a \$30,000 promissory note was sufficient to post for demolition of the house at 23 Ruckman. The Board resolved to discuss the balance of this issue after Caliber Builders' public hearing.

PUBLIC HEARINGS:

Caliber Builders; Block 506, Lot 1; Golden Orchards

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

Siobhan Spillane Bailey, Esq. – Counsel for Caliber Builders

Nancy Saccente, Esq. – Counsel for Kim & Janice Hogrefe

As Mr. Zepponi's testimony was completed at the previous hearing, Ms. Saccente was given the opportunity to cross examine him at this time. Ms. Saccente asked questions pertaining to stormwater management and drainage calculations. Conflict Board Engineer Keller spoke about his review letter

dated February 29, 2016 and how it details clarifications and additional information he and his firm was seeking from Caliber Builders as it relates to the infiltration system. Bowman Consulting has received documentation from Caliber Builders since the January 13, 2016 meeting. Mr. Keller stated that on January 23, 2016, he received drainage calculations dated January 22, 2016 which included a set of plans. Mr. Keller previously requested the applicant provide additional details as to where the infiltration systems are located on the plan, so it will be clear to anyone reading the plans in the future where the infiltration design changes occurred. Ms. Saccente asked Ms. Bailey to provide her with a copy of the drainage calculations dated January 22, 2016.

Mr. Zepponi confirmed that NJDEP has approved the revised landscaping plan. Ms. Saccente asked Mr. Zepponi questions regarding the infiltrator beds and how they differ between the 2007 preliminary approved plan and the current Hillsdale only plan; Mr. Zepponi stated that the infiltration portion of the beds became smaller. Continuous walkway and lighting in relation to it was also raised by Ms. Saccente for discussion and Ms. Bailey objected, to which Ms. Nabbie agreed, as there is no language about lighting in the resolution as it pertains to walkways. Ms. Saccente then questioned Mr. Zepponi about the scour hole and Mr. Zepponi explained to her the nature of it as well as that it was relocated to Hillsdale. The infiltration system was again discussed. Construction and architectural designs were also topics which were briefly raised by Ms. Saccente. Ms. Saccente then attempted to question Mr. Zepponi about environmental changes to the plan which Ms. Bailey objected to since Mr. Zepponi already testified to those changes. Ms. Saccente questioned why the applicant did not submit applications to both Hillsdale and Washington Township simultaneously to which Ms. Bailey also objected as the question was argumentative; Ms. Nabbie agreed. Ms. Bailey confirmed that she will transmit copies of the drainage calculations from January 2016 and the NJDEP approvals to Ms. Saccente. Ms. Saccente stated that she would like to continue to cross examine Mr. Zepponi at the next hearing.

The second witness was Ronald Boyer, P.E. of Langan Engineering, a geotechnical engineering expert who was sworn in to give testimony. Documents were then marked into evidence as follows:

Exhibit A22: Mr. Boyer's resume

Exhibit A23: Report dated May 22, 2014 prepared by Ron Boyer, P.E. of Langan Engineering

Exhibit A24: Memorandum dated October 1, 2015 from Eric Keller, P.E. of Bowman Consulting

Exhibit A25: Report dated February 18, 2016 prepared by Ron Boyer, P.E.

At Ms. Bailey's request, Mr. Boyer described the two conditions (condition D and condition P) of preliminary approval which pertained to his role in this project. Mr. Boyer then spoke about his May 22, 2014 report, stating that in March 2014 he witnessed the excavation of the test pits and prepared this report in connection with his findings. The conclusions, located on page 5 of 5 on Mr. Boyer's report, indicated modeling of soils was not observed, etc. Mr. Boyer worked with Board Engineer Mr. Statile on the test pits.

Mr. Horvath asked Mr. Boyer if clay is located in one particular area of the soil or throughout the soil and Mr. Boyer stated that the clay is interspaced within the soil matrix. Mr. Keller asked if soils are of a relatively consistent character or are they consistent and Mr. Boyer stated the soils are consistent, and primarily sand based soil. With sand based soil, water would infiltrate into the ground at a faster rate.

The meeting was then opened to the public. Fran Lieberman of 296 Ell Road, Hillsdale, Theresa Pendergast of 281 Ell Road, Hillsdale, and Jill Ronda of 273 Ell Road, Hillsdale all had comments and questions regarding seasonal high water, drainage, etc.

An additional document was then marked into evidence as follows:

Exhibit A26: Figure #1 dated May 22, 2014 – enlarged, colorized version of the Test Pit Location Plan

As no other member of the public had questions or comments for this witness, the meeting was closed to the public.

Ms. Saccente then had the opportunity to cross examine Mr. Boyer. Ms. Saccente asked who decided on the designated location(s) for the test pits and Mr. Boyer stated Mr. Statile did. Ms. Saccente then asked who decided that test pits would be conducted during the high water period and Mr. Boyer explained that the decision predated his involvement and it was not something he determined and he does not know who determined it.

It was confirmed that the soils haven't changed since the test pits were conducted. The test pit locations are indicated on the Test Pit Location Plan and the February 18, 2016 letter from Mr. Boyer addresses Mr. Keller's comments and nothing more. Mr. Boyer was hired in March 2014 and was aware that Mr. Darmofalski was hired previously to conduct test pits; Ms. Saccente asked Mr. Boyer if he agreed or disagreed with Mr. Darmofalski's findings and Mr. Boyer replied he neither agreed nor disagreed, as he relied upon his own information from the test pits he himself conducted; however he did review Mr. Darmofalski's findings.

At this time Ms. Bailey objected to Ms. Saccente's questions as they began to fall into the category of Res Judicata, as well as the fact that the Court had already addressed the issues in the September 17, 2009 judgement; the claim was in count 12 of the complaint and was dismissed.

Ms. Saccente stated that she requires additional time to review Exhibits A23, A24, and A25. Ms. Bailey objected, stating that Ms. Saccente has had plenty of time to review these exhibits, and that it is prejudicial to the applicant to extend this any further. Ms. Nabbie agreed with Ms. Bailey, however stated that she is not looking to remove the objecting party's right to cross-examine the witnesses testimonies. Ms. Saccente stated she was not aware Mr. Boyer would be present at the public hearing and Ms. Bailey stated that she advised he would be present however is not required to have done so. Ms. Bailey also stated that she has extended every courtesy to Ms. Saccente beyond what is required by Municipal Land Use Law.

Mr. Keller stated that on page two of his October 1, 2015 memo, it states there were 11 documents that he used to analyze this application, and that the February 2016 letter from Mr. Boyer was in response to his comments. The May 22, 2014 report from Mr. Boyer was included in the initial application package submitted to Mr. Keller, and after analyzing same, Mr. Keller decided that he and Bowman would have proceeded with the test pits in the same way that Mr. Statile did. Mr. Keller further stated he will ask his colleagues at Bowman why spring is designated the time of seasonal high water.

The Board then took a short recess and returned at 10:23pm. Upon returning from recess, Ms. Saccente asked if snow was on the ground when the test pits were conducted. Mr. Boyer confirmed that there was, but that the temperature doesn't impact what they were looking for in conducting the test pits and had no bearing on what the test pits showed.

Ms. Bailey requested a special hearing and the Board agreed to determine when the chambers are available. For special meeting scheduling purposes only, the application was carried to the April 26, 2016 meeting. The application was also scheduled for an additional public hearing to occur during the regularly scheduled meeting of May 17, 2016. Ms. Bailey waived the time frame for the Board to act until May 17, 2016. Ms. Nabbie announced that the application is hereby carried to April 26, 2016 at 7:30pm in these chambers for the purposes of scheduling a special public hearing and no further notice will be given.

DISCUSSION:

PZ-23-11; Donald Oriolo; Block 2004, Lots 2 & 11; 23 Ruckman Avenue

Mr. Oriolo was again sworn in for testimony. Ms. Nabbie reviewed for the Board that it needs to determine whether or not Mr. Oriolo has to remove the house at 23 Ruckman immediately, or if the Board chooses to allow him to post \$30,000 and give him 65 days to remove the house.

Mr. Oriolo stated that he has occupied the home and used it for facilities for the workers who are working on the new house on Rawson. Mr. Oriolo needs a Certificate of Occupancy for the house at Rawson.

The Board determined it needed to further discuss this matter with Board Engineer Mr. Statile to ensure that Mr. Oriolo has completed all other necessary requirements before formally approving this agreement.

Ms. Nabbie stated that she would be in contact with Mr. Oriolo's attorney Mr. Carter, and also with Mr. Statile regarding this issue. The Board confirmed that everything must be in order before issuance of a Certificate of Occupancy for the house at Rawson. The Board then conducted a straw poll – there was a motion made by Mr. Horvath to authorize Chairman Giancarlo to agree to Certificate of Occupancy issuance subject to assurances that the applicant has complied with all other conditions of previously granted approval. If the applicant has not complied with all conditions, the agreement will not be signed and the matter will be carried to the April 14, 2016 meeting. Ms. Miano seconded the motion. The Board was then polled – Dr. Lichtstein and Acting Chairwoman Calabria voted against the motion. Ms. Miano, Mr. Franco, Ms. Kates and Mr. Horvath voted in favor of the motion. Ms. Kates suggested that a condition be added to the agreement that Mr. Oriolo has a buyer for the house on Rawson. Ms. Nabbie agreed and stated that the agreement will need to be amended to include a copy of the contract between Mr. Oriolo and the home buyer.

The meeting was adjourned at approximately 11:06pm.

Respectfully submitted,

Caitlin Chadwick
Deputy Secretary