

MINUTES OF THE OCTOBER 27, 2016 PLANNING BOARD MEETING
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: F. Franco, Z. Horvath, E. Alter, Vice Chairwoman Calabria
G. Biener, Chairman M. Giancarlo, M. Kates

MEMBERS ABSENT: E. Lichtstein, J.Miano, Councilman F. Pizzella, Mayor D. Frank

EMPLOYEES PRESENT: N. Nabbie, Esq., Board Attorney
C. Statile, P.E., Board Engineer
C. Chadwick, Deputy Board Secretary

Chairman Giancarlo called the meeting to order with a reading of the Open Public Meetings Statement at approximately 7:30pm.

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

Burt Simpson of 197 Forest Drive, Hillsdale spoke about his concerns regarding the addresses in the Borough as being “official,” stating he previously presented this issue to the Mayor and Council and the Planning Board. Board Attorney Nabbie informed Mr. Simpson that it is the function of the tax assessor to assign block and lot numbers to addresses and this matter is not within the Planning Board’s jurisdiction. Mr. Simpson asked the Board to inform the Tax Assessor and Mayor and Council that he remains interested in this issue and would like to assist the Borough. As no one else wished to speak, the meeting was closed to the public.

MEETING MINUTES:

The *October 20, 2016 Meeting Minutes* were approved by the Board.

INFORMAL HEARING:

Dev’s Food LLC (DBA Burger King); 2 Broadway

William Bailey, Esq. – Counsel for the Prospective Applicant

Board Attorney Nabbie informed the Board that it cannot informally hear a use variance, only the sit planning issues. Board Engineer Statile informed the Board and prospective applicant about the previous KFC drive-thru use applications at the property.

Mr. Bailey began by introducing his client, Sanjay Patel, Principal of Devs Foods. Mr. Patel explained to the Board that he is considering construction of Burger King where KFC is currently located. Although he has not yet purchased the site, Mr. Patel is in negotiations with the current owner. Mr. Patel provided photographs of other Burger Kings he operates in Danbury and Ramsey, as samples of what the Hillsdale Burger King would look like if pursued and approved. Mr. Patel stated he would need signage with greater visibility to drivers than the current KFC signs; Mr. Statile discussed the matter with Mr. Patel, reminding him this location is in a small downtown area. Mr. Statile and Mr. Patel discussed the current landscaping at the site; Mr. Patel agreed to work around the existing landscaping. The parking lot and impervious coverage of the site were discussed. Ms. Kates asked Mr. Patel if he plans to have outdoor seating – he does not. Mr. Patel stated he would upgrade both the internal and external lighting to LED, and also confirmed he would not change the footprint of the building.

PUBLIC HEARING:

PZ-06-16; Andrew Dellaquila; Block 1622, Lot 3; 303 Evergreen

Use and Bulk Variance Application for a second story addition to existing dwelling

Board Attorney Nabbie formally announced that this application has been carried to the November 10, 2016 meeting at 7:30pm and no further notice will be given to the public.

PZ-13-15; The Nolan Partnership; Block 1523, Lot 3; 262-270 Broadway

Use Variance for rental apartments in the commercial district in pre-existing commercial building

Robert Mancinelli, Esq. – Counsel for the Applicant

Mr. Mancinelli confirmed he distributed revised plans to all required Borough Department heads for referrals. Ms. Kates confirmed the Environmental Commission submitted a report regarding the application which was emailed to Board Attorney Nabbie.

Steve Lydon, PP of Burgis Associates, 25 Westwood Ave, Westwood appeared before the Board as a professional planner. Mr. Lydon stated the applicant is developing an existing structure and described the current nature of the site – there is an excess of pavement, an excess of driveway curb cuts, as well as a high amount of impervious coverage, overgrown and deteriorating landscaping. The applicant intends to improve the current site conditions if his application is approved.

Photographs of the site and surrounding areas which Mr. Lydon took during this past spring were marked **Exhibit A8**. Mr. Lydon explained in detail the photographs and what they depict. If the proposed development were approved, the applicant would eliminate the pavement on the south end of the property, eliminate the excess curb cuts, eliminate the pavement along Wilts Avenue and increase the number of dwelling units by three. Mr. Lydon stated the lots are in the commercial use zone of the Borough, and stated that businesses can be more disruptive than the proposed use. Mr. Lydon reviewed for the Board that the applicant is seeking a ‘d1’ variance because residential use is not permitted in the commercial zone – the proposed residential use is not inherently beneficial. Mr. Lydon discussed at length the positive and negative criteria, stating the proposed application offers a good balance between new development and redevelopment; the 19,500 sq. ft. site is a large parcel of land, particularly for the commercial zone; the site is close to transit opportunities; it would further the State Plan of Planning Area I; furthers smart growth principles which are endorsed by the DCA; and it would further municipal land use law. Mr. Lydon believes the use variance would not detriment the public good nor would it have a negative impact on traffic. The Board was reminded that Mr. Lydon is not a traffic expert witness.

As Mr. Mancinelli had no further questions for Mr. Lydon, Board Planner Grygiel was given the opportunity to speak. Mr. Grygiel asked Mr. Lydon to elaborate on the negative criteria in relation to the zoning ordinance. There was a discussion regarding the amount of owner-occupied units in the Borough versus rental units. Mr. Lydon stated that the percentage of rental units in Hillsdale is still small. The Board had the opportunity to question Mr. Lydon; Mr. Alter asked why the applicant is not increasing the size of the building given the large size of the land parcel. Mr. Lydon stated maintaining the same size building footprint is “more approvable” by the Board for a number of reasons including that it offers a better balance for parking.

Mr. Lydon and Mr. Mancinelli confirmed the applicant will not be designating any of the four total units to affordable housing. The 1991 Certificate of Occupancy was discussed at length, specifically whether or not the pre-existing non-conforming use lawful.

Owner/Applicant Phillip Nolan of 270 Broadway, Hillsdale was sworn in before the Board and confirmed the business occupying the commercial unit is his own, and he plans to rent the current residential unit to a close friend on a month-to-month lease. Both Mr. Nolan and his friend will be flexible with living and business arrangements during renovation.

Further discussion occurred regarding site improvements being made to the site if the use variance were granted and Board Engineer Statile stated that the applicant theoretically could make identical physical improvements to the property, such as paving, fencing and lighting, regardless of commercial or residential use. Also, the property was purchased well after the adoption of the current land use ordinance establishing the commercial use of the property, and that the owner should have been aware of its commercial limitations at the time of purchase.

The meeting was then opened to the public for questioning of both Mr. Lydon and Mr. Nolan. Jeff Schmoyer of 55 Wilts Ave, Hillsdale asked Mr. Lydon about density, traffic, and impervious coverage. Mr. Lydon confirmed eight off-street parking spaces are needed and the applicant is proposing twelve. As Mr. Schmoyer had an engineering related question about the application, Mr. Statile spoke about the drainage computations and informed Mr. Schmoyer that there was a slight decrease in runoff from the site. Mr. Mancinelli stated there should not be any discussion of site plan issues and Mr. Statile stated the applicant recently submitted calculations along with revised plans so they were open for discussions. Mr. Statile stated that a condition of any approval will include the future survival of all approved landscaping on the site. Mr. Alter asked Mr. Schmoyer as the closest resident to the proposed application, whether or not he thinks favorably of the proposed use versus the current use. Mr. Schmoyer stated he thinks favorably of it, if modifications are made but as it was presented, he does not think favorably of it in relation to the current use. As no one else wished to speak, the meeting was closed to the public.

Ms. Kates asked if it is relevant that the applicant paved at the site without first obtaining permission to do so; Mr. Statile stated the applicant is proposing to reduce impervious coverage. Board Planner Grygiel summarized Mr. Lydon's testimony for the Board. There was an at length discussion regarding affordable housing in relation to the proposed application, specifically the ordinance for affordable housing, an in lieu contribution and the amount of same. Chairman Giancarlo requested the Board determine a consistent affordable housing requirement for all applications going forward. The meeting was again opened to the public to question Board Planner Grygiel. As none wished to speak, the meeting was closed to the public.

Mr. Mancinelli stated his client is agreeable to the concept of an in lieu contribution, however cannot agree to this without first reassessing the value of the property with the tax assessor. Board Attorney Nabbie stated that the Board needs specificity, especially for purposes of conditions of approval in the resolution. It was confirmed that this application differs from other approved applications regarding affordable housing because this is not 'redevelopment' but rather rehabilitation of a property and therefore the affordable housing obligation is different. Mr. Grygiel advised the Board to not approve the application without some kind of affordable housing obligation. Ms. Nabbie confirmed with Mr. Grygiel that the reason Hillsdale does not have an ordinance for this similar to other municipalities, is because the court has yet to determine a housing obligation amount through the current Borough litigation. Mr. Grygiel confirmed this is true – other municipalities are waiting for the State and Courts which have failed to function.

Mr. Mancinelli requested the Board vote on the application this evening. There was then a discussion regarding the Board's view of the application. Mr. Grygiel stated his view of the application is there is one existing unit and three additional units proposed. Mr. Statile stated the use variance "opens up the entire property" and since existing unit is non-conforming, he sees it as four proposed units. Mr. Alter, Mr. Horvath and Vice Chairwoman Calabria also view the application as being for four proposed units. Ms. Kates stated she sees it both as three and as four units and therefore cannot decide. Mr. Franco, Ms. Biener and Chairman Giancarlo stated they see the application as three proposed units. Mr. Mancinelli extended the

time for the Board to act until November 10, 2016 and Ms. Nabbie announced that the application is hereby carried to November 10, 2016 at 7:30pm in these chambers and no further notice will be given.

The meeting was adjourned at 10:30pm.

Respectfully submitted,

Caitlin Chadwick, Deputy Secretary