

**MINUTES OF THE APRIL 11, 2019 PLANNING BOARD MEETING
BOROUGH HALL, BOROUGH OF HILLSDALE**

MEMBERS PRESENT: Mayor J. Ruocco, E. Alter, Councilman Z. Horvath,
F. Franco, M. Kates, S. Riordan, S. Raymond, D. Burleson
Vice Chairwoman Miano, Chairman M. Giancarlo

MEMBERS ABSENT: E. Lichtstein

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

Chairman Giancarlo called the meeting to order with a reading of the Open Public Meetings Statement at approximately 7:45pm.

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

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

MINUTES:

The *March 26, 2019 Meeting Minutes* were approved by the Board, with minor revisions.

INFORMAL HEARINGS:

PSE&G Substation

Board Attorney Nabbie stated it is uncommon for Boards to hear informal presentations on use variances, therefore PSE&G will proceed with their presentation, excluding the use variance aspects of same. The use variance aspects of the application will be discussed at the public hearing once a full application has been filed with the Borough. Attorney Lewis Carp and project manager Randy Kenchellak both spoke about the substation work. A plan was presented and Mr. Carp and Mr. Kenchellak explained to the Board the previously approved work is outlined in blue, and the new proposed work is outlined in orange.

Mr. Kenchellak stated that the 69 kV GIS building is the reason PSE&G needs to return to the Board. Currently, the Hillside substation is served by two 230 kV lines, which serve over 17,000 customers in the area. After further analysis with PJM, PSE&G discovered they have a potential violation. Due to this, in the event of a failure of the two 230 kV lines, the entire substation would go without power for more than 24 hours. The application to be filed with the Board will bring in a third transmission source to prevent such an event from occurring. Aesthetically speaking, the new GIS building will be very similar to the two GIS buildings previously approved by the Board, however it will be smaller in size. Mr. Kenchellak stated additional details of the project will be provided to the Board with the formal application. He also presented a visual rendering of the new building.

Mr. Raymond inquired about accessibility for trucks and equipment. Mr. Kenchellak responded construction will begin immediately after construction for the current project is completed, therefore

there will be adequate space regarding accessibility for trucks and equipment.

Mr. Alter stated at the time of formal submission, he will be interested in discussing the safety records for the property. Specifically, any safety violations, the noise levels, how much smaller the proposed GIS building will be in relation to the existing GIS buildings, traffic, and impervious coverage.

Ms. Kates inquired about the violation. Mr. Kenchellak explained that PSE&G did not receive a violation but rather works with the Federal Regulatory Commission and together discovered a violation on these two lines which they are working to resolve. Mr. Kenchellak confirmed PSE&G is acting in a proactive manner.

Mr. Alter asked how many more employees will be in the new building. Mr. Kenchellak confirmed this will be an unmanned facility visited once per week by an operator. Vice Chairwoman Miano asked when the previously approved PSE&G project will be completed. Mr. Kenchallak replied PSE&G is currently on schedule and construction should be completed by the end of 2020, at which time the new project would also begin. Mr. Raymond requested a visual rendering of the new building from the residents' point of view and Mr. Kenchellak agreed to same. Board Engineer Statile stated the Board members can contact him if they would like to view the property in person, as he can allow them onto it. Mr. Franco asked if Patterson Street will be changing and it was confirmed that it will be. It was again confirmed the proposed building will be a third transmission source and will be supplement to the other two transmission sources; all three will work together to provide power. It was also confirmed that the current transmission sources have ratings which exceed the output of the station. Construction will take approximately 18 months from start to finish and Monday through Friday will be the target work week schedule, with some occasional work on Saturdays. Sunday work will never occur unless it is absolutely necessary. Councilman Horvath asked if these are pile supported structures; Mr. Kenchellak responded yes.

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

Mr. Kenchellak stated PSE&G is prepared to make a formal submission of the application soon. It was confirmed landscaping will be done at the very end of the project. Mr. Statile requested the formal application submission contain a site plan that is geared toward the non-electrical engineer reader. He further stated that although he appreciates the electrical details, they are a bit complicated for the Board to read.

PUBLIC HEARINGS:

***PZ-02-19; Block 503, Lots 9 & 10; Patricia Brady; 105 Pascack Road
Minor Subdivision with Variance Application***

Counsel for the Applicant – Dean Stamos, Esq.

Chairman Giancarlo recused himself due to personal discussions with objector Councilman Segalas; he stated the discussions were not pertaining to this application. Mayor Ruocco and Councilman Horvath also recused themselves. Vice Chairwoman Miano acted as Chairperson for the evening, due to Chairman Giancarlo's recusal. Ms. Nabbie disclosed to Mr. Stamos that Ms. Miano is on the Republican County Committee but has had no personal relations with Councilman Segalas. Mr. Stamos stated he has no objection as long as Ms. Miano can remain objective. Ms. Miano stated she will have no issues remaining objective. Councilman Segalas stated in 2016 or 2017, Ms. Miano could have been

a potential witness in a case in a matter he was handling, but was not and has had no professional interactions with her. Furthermore, he has no doubt or questions as to her ability to remain objective.

Mr. Stamos began, stating at some point, these lots were separate but became merged under common ownership. The applicant's intention is to construct a home on the lot and live in the home. He then called his first witness, Mr. Sean McClellan of 101 West Street, Hillsdale who was sworn in to testify as an expert witness in engineering. Mr. McClellan explained there is a single family home with a circular driveway on the lot, and the applicant seeks to subdivide the property. If subdivided, both lots will be deficient in lot area and lot width. However, there will no non-conformances in regards to the existing building, and any proposed building will also conform. If subdivided, any home designed or built on the new lot would not require any variances in regard to location. Mr. McClellan confirmed he received Mr. Statile's review report and stated he will comply with everything in the report. Mr. Statile stated a wetlands delineation may be required. He also stated a pond straddles both Brady and Segalas's properties and he is unsure of who is responsible for maintenance, if maintenance is required. An easement is also needed for frontage so sidewalks can be constructed in the future during county road widening. It was confirmed there was no previous history of Board approval on this property.

As stated earlier, the applicant is trying to separate the lot which previously was two lots, joined under common ownership. A tax map dated July 6, 2012, showing the lots separated as they once were prior to the merge, was marked **Exhibit A-1**. Ms. Nabbie asked when the lots merged and Mr. Stamos replied he is unsure. The applicant(s) purchased the lot this year. Mr. Statile stated there was a title transfer in 2007. Mr. Stamos referenced the blockner doctrine, stating this Supreme Court case stated that if two undersized lots merge under common ownership, if the owner wishes to subdivide the lots and the only deficiency is lot area and lot width, the Board should approve it. Ms. Nabbie stated the Board must hear testimony first. She also reminded the Board members they should focus on whether or not the applicant met their burden of proof.

Ms. Kates stated she has questions regarding the presented photographs. It was confirmed the four photos were taken by Warren Wicks, PO Box 241, Pearl River, NY 10965 about one and a half months ago. The photos were collectively marked **Exhibit A-2**. There was also a discussion regarding the fence and an encroachment issue. Mr. Stamos stated Mr. Segalas's pond and fence are encroaching onto Ms. Brady's property however it is a minor issue to be resolved between the property owners.

Mr. Riordan asked who is the applicant and who is the property owner as the list did not state Patricia Brady on it. It was confirmed Patricia Brady is the applicant and property owner, but the list was obtained in December of 2018, prior to deed transfer. Mr. Riordan also discussed the building envelope. Mr. Wicks confirmed there is no water issue in the basement of the existing home. The home he plans to build for Ms. Brady will not have any basement.

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

Catherine Gregory of Fort Lee then was sworn in to testify as an expert in professional planning. Ms. Gregory stated she reviewed the plans but did not do a site inspection. She also presented photos which were marked **Exhibit A-3**. The photos showed the subject property. Ms. Gregory reviewed in detail the positive and negative criteria of the application. She stated she believes it is beneficial as it makes efficient use of the space. The existing home does not have any variances with the proposed subdivision. There is no substantial detriment to the public good, and no substantial detriment to zoning, Ms. Gregory stated. Furthermore, the wetlands help mitigate the lot area because nothing can

be built on them. She stated she reviewed the Master Plan and all Re-Examination reports for the Borough. Ms. Gregory stated in summation, she believes the application meets all the positive and negative criteria.

Mr. Riordan asked if the applicant would consider creating one conforming lot and one non-conforming lot. Ms. Gregory stated in that case, the non-conforming lot would be that much more non-conforming, versus two minorly non-conforming lots which would be less of a violation, and more balanced. Mr. Stamos stated the applicant wishes to continue to propose the two non-conforming lots. Ms. Nabbie asked how this will benefit the community, and Ms. Gregory replied it will complete the streetscape and fill in the empty space created on the one large lot.

Ms. Nabbie and Mr. Statile confirmed with the Kaplan case, which Ms. Gregory referenced during her testimony, the applicants had oversized lots and were downsizing them during the subdivision. Furthermore, they took into account both sides of the street, and the entire neighborhood when meeting their burden of proof.

Wetlands and building potential was discussed further. Mr. Statile discussed a transitional waiver. Ms. Nabbie stated that is the applicant's risk and the Board must make a decision only on what is before them; can the applicant create two non-conforming lots.

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

Mr. Stamos gave his summary. Mr. McClellan reviewed the specific dimensions for the lots. One lot is about 9% deficient, the other is about 12% deficient. Mr. Stamos stated they believe the subdivision is a benefit to the community as it will finish the checkerboard pattern of homes in the area and fill the void. There is no substantial negative detriment. He further stated the applicant will comply with all setback requirements, etc. when building a new single family home on the second lot. Finally, it would be beneficial to complete the visual aspect.

Ms. Nabbie read aloud the section of the MLUL pertaining to c2 variances. She stated the Board must consider if the benefits outweigh the detriments and would this benefit the community. Ms. Nabbie reminded the Board the importance of putting their reasons for voting either way on the record.

Mr. Riordan asked about the 200 ft. tax list, as Block 708 is listed but is not within the 200 ft. radius. He also asked if Block 801 was noticed, because although it is within the 200 ft. radius, it's not on the 200 ft. list.

The Board took a recess at 9:48pm. At 10:06pm, the Board returned from the recess.

Ms. Nabbie stated the 200 ft. tax list did not include six properties that are within the 200 ft. radius. The law allows the applicant to rely upon the 200 ft. list, specifically, reasonable reliance upon the list. Ms. Nabbie stated it is questionable if the reliance on the 200 ft. list is reasonable given the applicant's own key map shows those six lots. Mr. Stamos stated he includes a key map with every application. The law states he is entitled to rely upon it. When you have hundreds of applications, there is no time to investigate, he stated. If the Board states inclusion of a correct key map means it is unreasonable to rely on a 200 ft. list, then it's never reasonable to rely on it, Mr. Stamos said.

Ms. Nabbie referenced Section 12 of the MLUL, and stated the applicant is at risk to decide to proceed,

this is an issue of jurisdiction.

Acting Chairperson Miano stated 30% of people who should have been noticed, were not, which she felt was a significant amount. Mr. Alter stated he is a Land Use Clerk in River Edge and he always ensures the attorney reviews the 200 ft. list with him to avoid situations such as this one; it is a checklist item for variances in River Edge. Mr. Stamos stated he has 500 land use applications throughout the state. Mr. Statile stated from now on, it will be included on Hillsdale's checklist for variance applications. Ms. Nabbie stated the issue is the 200 ft. list is inconsistent with the applicant's own key map. Ms. Nabbie recommended the applicant re-notice. Mr. Stamos asked if they re-notice and no one from the public appears, do they need to re-present the entire application. Ms. Nabbie stated if someone from the public appears, the applicant will need to restart the testimony. Mr. Statile suggested carrying the application to May 9th. Mr. Stamos agreed. Ms. Nabbie announced the application is carried to May 9th at 7:30pm and property owners will receive notice from the applicant. The applicant waived all time for the Board to act.

The meeting was once again opened to the public. As no one wished to speak, the meeting was closed to the public.

The meeting was adjourned at 10:20pm.

Respectfully submitted,

Caitlin Chadwick
Deputy Secretary