

MINUTES OF THE FEBRUARY 12, 2015 PLANNING BOARD MEETING
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Lichtstein, M. Kates, M. Giancarlo, L. Calabria,
F. Franco, J. Miano, Z. Horvath, G. Biener, Councilman F. Pizzella

MEMBERS ABSENT: J. Traudt, Mayor M. Arnowitz

EMPLOYEES PRESENT: Nylema Nabbie, Esq., Board Attorney
Christopher P. Statile, P.E., Board Engineer
Paul Grygiel, P.P., Board Planner
Caitlin Chadwick, Deputy 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):

Mr. O'Brien came forward to speak about concerns regarding Shop Rite.

MINUTES:

The *January 28th, 2015* meeting minutes were approved by the Board.

BOARD BUSINESS:

Land Use Course for Board Members

Chairman Giancarlo asked Board Engineer Statile and Deputy Secretary Chadwick about land use classes for Board member certification. Mr. Statile stated that new Board members need to take a DCA approved land use course within the first 18 months of serving on the Board. Ms. Chadwick then informed the Board of two dates in March when land use courses will be offered through Rutgers. Board Planner Grygiel informed the Board of additional classes that are offered through the NJPO. Ms. Chadwick will obtain more information regarding land use course options for Board members. It was confirmed that Board members who are already certified in land use do have the option of taking the course a second time as a "refresher."

Memo from Board Planner re: Various Zoning Issues

Board Planner Grygiel discussed his memo with the Board. Mr. Grygiel and the Board considered how the Board might proceed with defining "family unit" as well as "boarding house" and many suggestions were made. Mr. Statile stated that a house should be open to all who live in it if it's being called a "group home," and possibly considered a two-family house if it contains two, separate entrances. Group homes should not have areas that cannot be accessed by all individuals. Mr. Statile further stated the Building Dept. would benefit from having a clear definition for multi-family dwellings and it would help them in determining what constitutes a group home and what constitutes a two-family house. It was confirmed that Mr. Grygiel will have a definition of "family unit" by March 24th.

Mr. Grygiel then spoke about the remaining items on his memo, specifically the issues in the Hillside industrial zone. Mr. Grygiel recommended the Board broaden their list of permitted uses

in the industrial zone and stated that he is not in favor of mixed use in that location. The Waste Management site was also discussed and Mr. Statile reminded the Board that Waste Management has a state license to be located there and he doesn't believe they are going to move. And the Borough cannot remove the state license. It was confirmed that the Borough Economic Committee has not met yet to discuss the industrial zone issues, as the budget is currently the item of primary focus. It was confirmed that on March 12th, Mr. Grygiel will give recommendations to the Board regarding the industrial zone and the Master Plan.

PUBLIC HEARINGS:

PZ-07-14; William Doody; Block 1208, Lot 2; 74 Prospect Place

Major site plan application with variances for change of use for subleasing & landscape vehicle parking

PZ-08-14; William Doody; Block 1208, Lot 3; 539 Piermont Ave.

Major site plan application with variances for change of use for landscape material storage and vehicle parking

Board Attorney Nabbie announced that both of the above applications have been adjourned to April 9th, 2015 at 7:30pm and there will be no further notice.

PZ-13-14; Anne Sirkin; Block 1302, Lot 6; 82 Crosley Terrace

***Bulk "c" variance for side yard setback for new addition to existing single-family dwelling
Continuation of January 28, 2015 hearing***

Joseph Peters of Finest Home Design, 215 Richmond Ave., New Milford, NJ was sworn in before the Board to testify. Mr. Peters presented the Board with revised plans showing an updated zoning table as well as photographs of the property and surrounding area. Mr. Peters confirmed that only a variance for side yard setbacks is needed. Mr. Franco asked about the shed and whether or not it will remain on the property. It was confirmed that the shed will remain.

The hearing was then opened to the public for questioning of the witness. As no member of the public had questions, the meeting was closed to the public. The Board professionals also did not have any questions for the witness.

Mr. Horvath made a motion to approve this application and Mr. Franco seconded that motion. A vote was conducted and all eligible Board members voted in favor of this application. The motion was passed and the application was approved.

CLOSED SESSION:

At 8:45 pm, Councilman Pizzella recused himself and the Board went into closed session to discuss a pending litigation for 150 Magnolia Avenue. On January 19th, 2015, Allen M. Bell, Esq. filed a complaint with the Bergen County Court. Ms. Nabbie stated that she has 35 days to respond and in order to do this, the Board must approve Nylema to represent Hillsdale in this matter at a rate of \$150/hr. Vice Chairwoman Calabria made a motion to have Ms. Nabbie represent Hillsdale in this matter, Mr. Horvath seconded the motion. All Board members voted in favor of having Ms. Nabbie

represent Hillsdale in this pending litigation. The Board then returned from closed session and an announcement was made that Nylema Nabbie, Esq. will represent Hillsdale in the pending 150 Magnolia Ave. litigation.

The Board then moved to go into public session.

PUBLIC HEARINGS:

PZ-15-14; Kevin & Janine Tedesco; Block 1516, Lot 3; 23 Oakland Street

“C” variance for front yard setback and “d” variance for FAR for reconstructed single family dwelling

Alan Trembulak, Esq. – Counsel for Applicant

Mr. Trembulak began by stating in the summer of 2014, the Tedescos applied for and received two variances from the Planning Board, wherein it was understood that 70% of the exterior walls of the house would be removed and 30% would remain. However, when Mr. Tedesco began construction, a couple issues came to light – termite damage and problems with the wall sheeting. Due to these issues, Mr. Tedesco, who Mr. Trembulak stated is a general contractor, had to tear down walls that he previously agreed to leave remaining intact. On November 10, 2014, Ms. Tracy Jeffery issued a zoning violation and a stop work order. Eight days later, Mr. Tedesco filed a new application for the same two variances he was previously granted, as Ms. Jeffery told him to do so. On January 8th, 2015, Mr. Tedesco was watching the Planning Board on CCTV and heard Ms. Nabbie point out to the Board that the Tedescos were reapplying for variances they were already granted, and that they should have applied to appeal the decision of an administrative officer. Mr. Trembulak on behalf of Mr. Tedesco, then submitted an amended application requesting to appeal the decision of an administrative officer or reaffirm the variances that were already granted to the applicant, dated January 29th, 2015. Mr. Trembulak further stated that the Tedescos never intended to remove the walls but that it was necessary because of the termite damage and sheeting issues.

Mr. Statile stated that he receives many applications much like this one that are written as being an “addition” to an existing dwelling, when it is essentially a gut renovation or complete reconstruction. Mr. Trembulak was in agreement with Mr. Statile. Mr. Statile further stated that he never received topography for this property, which means no one can check the actual building height until it is too late. Mr. Statile explained that once an existing house is demolished, the Board has different options to consider and require from the applicant such as zoning compliance. Previously, the Board was looking at an addition and now they are looking at a demolished home. Mr. Statile explained that the Board could have assisted the Tedescos in modifying the house and bringing it into compliance with Hillsdale ordinances if they had known the applicant was seeking to do a gut renovation.

Ms. Nabbie stated that she takes issue with the applicant’s request to appeal, because such a request must be filed within 20 days of when the zoning violation was issued and the request was not filed within 20 days. It was also confirmed that a different attorney was representing the Tedescos after the stop work order was issued. Ms. Nabbie further stated that in the notice the applicant published in *The Record*, which ran on January 26th, 2015, there was no mention of any request to reaffirm the variances previously granted to the applicant; the applicant only mentioned the request for an appeal in the notice. As the request to appeal the decision of an administrative officer was not filed

in the proper time frame, and no notice was published regarding the request to have the Board reaffirm previously granted variances, Ms. Nabbie stated that the Board does not have jurisdiction to hear the applicant. It was confirmed that the applicant did not file a notice of appeal to or with Tracy Jeffery. Ms. Nabbie then read from the resolution wherein the applicant proposed a 2nd floor addition with a new porch that would line up with the existing façade of the house. The existing façade of the house however, has been eliminated. The resolution also stated that most of the first floor would be constructed, not all of it.

Mr. Trembulak stated that the Board needs to decide if the Tedescos are in violation of the resolution or not. Ms. Nabbie stated that the appeal was not filed within 20 days of the zoning violation. Ms. Nabbie also stated that Mr. Tedesco has other options he can consider, such as going to court. Mr. Trembulak stated that the Tedescos' intentions were good and they were not trying to deceive the Board. Ms. Nabbie stated that what is being requested is basically for the Board to revoke the stop work order and the Board does not have the jurisdiction to do so.

Mr. Tedesco was then sworn in before the Board. Mr. Tedesco stated that when he purchased the house, there was known termite damage and it had been treated. However, when he opened the wall, Mr. Tedesco discovered additional termite damage and that there also was no sheeting on the house. Mr. Tedesco stated that the floor framing and sub-floor framing remained; he added steel beams in the basement and all of the other work he did was replacement of what had been damaged by termites, and was built as replacement in the same way as it previously existed. He acted as his own general contractor since that is his line of work.

Vice Chairwoman Calabria stated that she believes the Tedescos were in violation. It was determined that although the Board Engineer stated that he knew it was a gut renovation back in August, that detail was never included in the Resolution and the applicant therefore never had permission to perform a gut renovation. Mr. Horvath stated that he has been a contractor for much of his life and wanted to know why, when Mr. Tedesco discovered the issues, he didn't contact or notify the Building Dept. before continuing work.

Mr. Tedesco stated that Ms. Nabbie's Resolution was written incorrectly and that the front porch was never supposed to be in keeping with the existing façade. Mr. Tedesco further stated that he doesn't build houses for a living, and only does framing work.

Chairman Giancarlo stated that all the Board can do for the Tedescos at this time is give them another public hearing date. Mr. Trembulak stated that he doesn't want the Tedescos to lose their place in line, and will notice immediately for the assigned date. The Tedescos were then scheduled for March 12th, 2015 and Ms. Nabbie announced that they will be required to notice and provide an affidavit of service.

The meeting was adjourned at 10:07pm.

Respectfully submitted,

Caitlin Chadwick
Deputy Secretary