

MINUTES OF THE FEBRUARY 24, 2015 PLANNING BOARD MEETING
BOROUGH HALL, BOROUGH OF HILLSDALE

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

MEMBERS ABSENT: M. Giancarlo, Mayor M. Arnowitz, Councilman F. Pizzella

EMPLOYEES PRESENT: Nylema Nabbie, Esq., Board Attorney
Christopher P. Statile, P.E., 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 7:40pm.

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

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

MINUTES:

The *February 12th, 2015* meeting minutes were approved by the Board with the condition that the Deputy Secretary will make minor corrections.

BILLS:

Invoices from the Board Engineer and Board Attorney were approved by the Board for payment.

COMPLETENESS REVIEW:

PZ-04-15; Richard & Andrea Napolitano; Block 106, Lot 4; 35 Glen Hook Road
Bulk Variance for construction of a one room addition & deck was deemed complete and scheduled for a public hearing date of April 9, 2015.

PZ-01-15; Charles Messina; Block 2201, Lot 38; 60 Ruckman Ave.

Bulk Variance for front yard setback to a recently reconstructed dwelling was deemed complete and scheduled for a public hearing date of April 21, 2015.

RESOLUTIONS:

2015-5; Ruth & Dean Fiorino; Block 1406, Lot 45; 119 Large Avenue
Approval of Variance Application was approved by the Board.

2015-6; Resolution for 150 Magnolia Ave. Litigation legal services was approved by the Board.

BOARD BUSINESS:

Sustainability Checklist/Guidelines

This item was previously scheduled for discussion but is postponed to the March 12th meeting, when the Board Planner will be present to participate in the discussion.

PUBLIC HEARINGS:

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

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.

The hearing began with the discussion of Mr. Lamb's letter dated 2/13/15, which outlined several issues he had with the current application. Ms. Bailey stated that she had already responded in writing to all of Mr. Lamb's issues, but would be happy to discuss it at the hearing in order to put the issues to rest. Mr. Lamb stated that he would be happy to address those issues or defer them for a later date. Ms. Nabbie stated it is Mr. Lamb's pleasure how he would like to proceed. It was decided that the issues would be deferred, and Mr. Zepponi would now offer rebuttal to Dr. Boswell's testimony.

Ms. Bailey informed the Board that Caliber Builders has received all necessary approvals for this project, including approval from the Bergen County Soil Conservation District. Ms. Bailey explained that the applicant is proceeding with the project in the same manner as in preliminary, and the plans are consistent with the approvals the applicant has obtained. Ms. Bailey further stated that she would like the Board to approve the plan in its entirety, subject to Washington Township's approval, as Hillsdale has jurisdiction over the vast majority of the plan. 31 homes are located in Hillsdale, and six straddle the municipal line dividing Hillsdale and Washington Township. Ms. Bailey further stated that her client never indicated that they planned on eliminating seven homes from the plan.

Mr. Lamb stated that any approval Hillsdale grants would need to be subject to Washington Township approval. He further stated that multiple changes have been made to the plans, wherein things were taken out of Washington Township. Ms. Bailey disagreed with Mr. Lamb that the Board needed approval in Washington Township before approving anything in Hillsdale, and disagreed with Mr. Lamb's interpretation of previous Board Attorney Ritvo's ruling. Ms. Bailey stated that any and all changes made to the plan were not substantial. As Dr. Boswell suggested at the November 13, 2014 hearing that it would have been easier for the Board to reach a conclusion had the applicant provided a phased, Hillsdale only plan, Ms. Bailey informed the Board that her client intends to submit a Phase I Hillsdale only site plan. She explained that Mr. Zepponi has an overlay of the Phase I Hillsdale only site plan and is prepared to present it to the Board and testify to it this evening.

At this time, Ms. Nabbie asked specifically what the applicant is requesting of the Board. Ms. Bailey explained that her client seeks Final Site Plan approval of the entire project, understanding that any approval granted would include the condition that the plan be subject to approval in Washington Township. Her client also seeks final site plan approval of the Hillsdale only plan, without conditions.

Ms. Bailey confirmed that the site plans dated 12/31/14 were on file at the building department within the 10 day advance requirement for the public hearing. Mr. Lamb stated that the applicant had not publicly noticed for the new site plans, which had two revisions. Ms. Bailey stated that this site plan is the same plan, it is not new, and that the two revisions made to it are revisions which address issues that were raised on November 13th by Dr. Boswell and the objectors; all changes that have been made are consistent with the previously granted Preliminary Approval.

Mr. Lamb stated that revision #27 and #28 included changes to grading and that the basements of the proposed homes are only 2 ft. underground. Mr. Lamb further stated that preliminary approval was about 'feasibility' of the project. Ms. Bailey disagreed and read from a transcript of a Supreme Court hearing of this application which stated that the planning board must make a decision on the stormwater management plan at the preliminary site plan stage. Ms. Bailey also read "condition d" of the resolution where Hillsdale granted Preliminary Site Plan approval to the applicant regarding the stormwater management system and seasonal highwater. She reminded the Board that these issues were all litigated right up to Supreme Court.

The stormwater management system was further discussed. The soil test pits and who conducted them was also discussed. Ms. Bailey stated that the Board imposed a condition in May of 2008 that the test pits be conducted in the presence of a third party engineer with the Board Engineer, Mr. Statile. Ms. Bailey said that her client then received a report from the opposition about problems with Mr. Darmofalski conducting the test pits, ranging from him not being a geotechnical engineer, to his soils report not being "good enough" because he "wasn't a good enough writer." The Board required the applicant to hire an independent geotechnical engineer to conduct the test pits in the presence of Mr. Statile, and the applicant satisfied those conditions with Langan Engineers. Mr. Lamb stated that he and Mr. Hogrefe were never "invited" to the test pits that had been conducted. Furthermore Mr. Boyer, P.E from Langan Engineers was hired as the 3rd party for the engineer to conduct test pits for the Board. Ms. Bailey stated that there is no satisfying the opposition. At this time, Acting Chairwoman Calabria halted the discussion, as it was now addressing the issues of Mr. Lamb's letter and Mr. Zepponi had still not been given an opportunity to begin his testimony.

Ms. Bailey stated that the portions of the plan located in Washington Township are subject to Washington Township's approval. She again explained that for the site plan showing both Hillsdale and Washington Township, her client seeks approval with conditions. On the site plan that shows only Hillsdale, her client seeks approval without conditions. Ms. Bailey stated that Caliber Builders wants to be free of the condition that they cannot put a shovel in Hillsdale ground until Washington Township grants approval. The applicant does not intend to remove the six homes that are located in both Washington Township and Hillsdale. Mr. Horvath asked which town will have jurisdiction over the homes that straddle the municipal line, in the event that the project is approved and the homes are built. Mr. Statile stated that the tax bills would probably be split between both towns and that the issue of construction permits would need to be worked out between the construction officials in Hillsdale and in Washington Township. Also, emergency services in both Hillsdale and Washington Township would need to decide which town would receive the first call for those homes, although the street is completely in Hillsdale. Thus all the dwellings would have Hillsdale addresses.

Acting Chairwoman Calabria stated it appears the applicant is requesting three different approvals from the Board. Ms. Nabbie agreed. Ms. Bailey disagreed and stated that her client is only seeking two, as she explained earlier. Ms. Nabbie stated that she is confused and concerned that members of the Board and public may be confused as well.

Ms. Bailey said that she and her client are looking for the Hillsdale Planning Board to not impose conditions that prevents them from beginning construction in Hillsdale, thus the additional site plan exhibits. Furthermore, Caliber is trying to assist the Board rather than confuse it. Caliber is seeking approval that does not constrain construction in Hillsdale before receiving approval from Washington Township.

Mr. Franco asked if allowing the applicant to begin construction in Hillsdale only will negatively impact Washington Township. Mr. Statile stated that it would not. Ms. Nabbie stated that the Board does not have the Hillsdale only plan in front of them, so the Board is confused. Ms. Bailey stated that perhaps Mr. Zepponi's testimony can clear up these issues for the Board.

The Board members were all given the opportunity to express whether or not they wanted to hear Mr. Zepponi's testimony this evening. Mr. Franco, Dr. Lichtstein, and Mr. Horvath wanted to hear Mr. Zepponi's testimony; Ms. Kates, Ms. Miano, Ms. Traudt, Ms. Biener and Acting Chairwoman Calabria were all uncomfortable hearing Mr. Zepponi's testimony without having the Hillsdale only plan in front of them, and were concerned about the Board hearing the same testimony twice.

Mr. Zepponi was then sworn in. Mr. Zepponi stated that he would show an overlay of the Hillsdale only final site plan and will incorporate any concerns or suggestions the Board has on the paper plan. The overlay and the plans the Board received previously are exactly the same plan, with the exception that the homes that straddle the municipal line are not shown in the Hillsdale only overlay. Mr. Zepponi and Ms. Bailey were in agreement that there wouldn't be any need to repeat the same testimony twice.

The Board then asked for Mr. Statile's input. Mr. Statile stated that he disagrees with the Board's legal counsel. Mr. Statile reminded the Board that it is their job to decide whether or not the applicant has made substantial changes to the plans, and that the application was difficult because it involved two municipalities' approvals. Ms. Kates asked isn't this a conceptual plan to be presented, and Mr. Statile answered it is not.

Dr. Lichtstein stated that he wants to hear Mr. Zepponi's testimony. Ms. Traudt stated that the Board should not accept testimony because the Hillsdale only plan was not provided 10 days before the meeting and the Board would not allow anyone else to testify if they had not submitted plans 10 days in advance. Ms. Nabbie stated that it is her intention to protect the Board. Ms. Bailey stated that the plan Mr. Zepponi intended to present tonight allows for a Hillsdale stand-alone project. Acting Chairwoman Calabria responded that the plan is only on an easel and not in paper form for the Board members to look at.

The application was carried to the March 12th 2015 meeting with the understanding that at that time, a special hearing date will be assigned to the application.

At 9:38pm, the Board went into Closed Session to discuss the 150 Magnolia Avenue Litigation. There was no action taken by the Planning Board. At 9:58pm, the Board returned from Closed Session and took no action.

The meeting was adjourned at approximately 10:00pm.

Respectfully submitted,

Caitlin Chadwick
Deputy Secretary