

MINUTES OF THE JUNE 11, 2014 PLANNING BOARD
BOROUGH HALL, BOROUGH OF HILLSDALE

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

MEMBERS ABSENT: E. Lichtstein (arrived at 8:50pm), Mayor M. Arnowitz

EMPLOYEES PRESENT: Nylema Nabbie, Esq., Board Attorney
Christopher Statile, P.E., Board Engineer
Caitlin Chadwick, Acting Deputy Secretary

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

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

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

MINUTES:

The *May 14, 2014* minutes were approved by the Board.

BILLS:

Invoice No. 16357 from Ms. Nabbie, Esq. was approved by the Board for payment.

RESOLUTIONS:

Resolution No. 2014-11, Cohen; Block 202, Lot 9; Bulk Variance application for front and side yard setbacks for the installation of a new swimming pool was approved by the Board.

Developer's Agreement, Inserra Supermarkets Inc. was approved for execution by the Board Chairperson and Secretary. The agreement will be sent to the developer's attorney for their signature(s) first.

COMPLETENESS REVIEWS:

PZ-06-14; Carol & Christine Tropea; Block 1505, Lots 6 & 7; 116 Clinton Ave.; Bulk Variance Application for Impervious Coverage for Prior Reconstructed Dwelling was deemed incomplete.

PZ-04-14; Kevin & Janine Tedesco; Block 1516, Lot 3; 23 Oakland Street; Bulk Variance Application for Front Yard Setback and Use Variance - FAR for proposed dwelling expansion was deemed complete and scheduled for a public hearing on August 13, 2014.

PZ-05-14; JKD Inc.; Block 1205, Lots 15 & 16; 30 Lake Drive; Application to Appeal the Administrative Officer's Decision denying Occupancy Change in Industrial Zone was deemed administratively incomplete.

PZ-03-13; Saddle Wood Properties, L.P.; Block 503, Lot 4; 786 Hillside Ave; Minor Subdivision Application for Three Lots was deemed incomplete.

PUBLIC HEARINGS:

PZ-07-13; Caliber Builders; Block 506, Lot 1; Final Site Plan Application for Single-Family Age Restricted Dwellings Units

Counsel for the Northgate Condominium Association Opposition – John Lamb, Esq.

Counsel for the Applicant – Siobhan Spillane Bailey, Esq.

Mr. Lamb and Ms. Bailey each discussed their views regarding the new Soils Report prepared by Langan Engineering & Environmental Services, dated May 20, 2014, in addition to Board submission protocol of documents. The new soils report, submitted by Mr. Stewart Weinberger of Caliber Builders, was to replace a previous soils report. Mr. Lamb believed he still had the right to question the first independent engineer on the soil test pits he oversaw. Ms. Bailey formally withdrew that soils test pit submission and said it was not necessary to produce the first engineer.

Ms. Bailey informed the Board of a rule that the previous Board attorney, Harold Ritvo had instated; all correspondence sent out by the attorneys is to be mailed to the Board attorney, not the Planning Board. The Board Attorney would then decide which to disseminate to Board members.

Ms. Nabbie then explained to the Board that their role in this application is to decide whether or not significant or substantial changes have been made between the Preliminary Approval and Final Site Plans, and whether or not those changes meet the conditions of approval in the resolution.

Mr. Lamb raised concerns about Caliber Builders' permits from NJDEP through production of correspondence between the State and the site engineer. Board Engineer Mr. Statile spoke about his professional experience in dealing with NJDEP regarding obtaining permits and the correspondence trail. He explained to the Board and Counsel that NJDEP communicates largely via telephone when they review an applicant's permit(s) and rarely mail out formal review letters to the applicant.

At 8:37pm, Councilman Kelley left the Chambers to respond to a potential fire call. At 8:38pm, Councilman Kelley returned to the Chambers.

Mr. Hogrefe of 746 Pascack Road, Hillsdale came before the Board to voice his concerns about the Soil Report prepared by Langan Engineering. Mr. Hogrefe informed the Board that in 2007 or 2008, a contractual agreement between his lawyer Nancy Saccente and Ms. Bailey was made that he would be notified of any soil test pits. Mr. Hogrefe stated that he was not informed of the testing performed by Langan. Upon discovering that Mr. Hogrefe was in attendance (as a member of the public and not as Counsel) Chairwoman Calabria informed him that he would need to finish speaking when the meeting is re-opened to the public.

At 8:43pm, Mr. Lamb continued his cross-examination of Caliber Builders' engineer, Alex Zepponi, P.E. of ENTEC. Mr. Lamb questioned Mr. Zepponi about matters pertaining to NJDEP Fish and Wildlife correspondence. The 26 revisions made to the site plan were also discussed.

At 8:50pm, Board Member Dr. Elliot Lichtstein arrived.

Mr. Lamb brought several documents to the Board's attention including:

Exhibit O6: Chart Comparing Flood Storage Between Preliminary & Final Site Plans

Exhibit O7: Stormwater Management Report for Golden Orchards by ENTEC
dated 8/10/2007, *revised to 3/7/2009*

Exhibit O8: Stormwater Management Report for Golden Orchards by ENTEC dated
8/10/2007

Mr. Zepponi stated that he had changed the original stormwater detention design (which the above documents refer to), but returned to the approved design under the Preliminary Approval. These were the plans currently being shown to the Board for Final Approval. He did not recall why he had made the initial change. Board members questioned Mr. Lamb on his cross examination of Mr. Zepponi since the drainage detention system was 'as approved' under Preliminary Approval. Mr. Lamb said it was to determine Mr. Zepponi's credibility of the plan changes.

Several Board members asked Ms. Nabbie if it made any difference why the changes were made by Mr. Zepponi, or just that they were not substantial. Ms. Nabbie said that it was up to Board members to decide how important the reasons for the changes were made.

Mr. Statile asked Mr. Zepponi if the original 50 ft. wetlands buffer remained the same between the preliminary and the final plans, which the Letter of Interpretation (LOI) from the NJDEP had been issued. Mr. Zepponi responded yes, elaborating that NJDEP Fish & Wildlife did not identify this site as having Indiana bats, or any species of bats. But Fish & Wildlife asked to move back the storm drain outlet to 150 ft. from the wetlands as an accommodation.

Mr. Alter asked Mr. Zepponi if all revisions made were at the request of the Borough or an NJDEP division. Mr. Zepponi responded in the affirmative, stating that nine of the revisions were made at the request of the Board as conditions of approval.

The Board, Counsel, and Mr. Zepponi further discussed NJDEP permits.

Ms. Bailey brought to the Board's attention that a pending appeal to NJDEP by Mr. Lamb does not invalidate the existing permits Caliber obtained.

The Board then discussed with its Counsel the possibility of scheduling a special meeting for this application. It was decided that at least one special meeting for Caliber Builders will occur. As Counsel and the Applicant had not yet compared their schedules, scheduling of the special meeting will be discussed and determined at the June 24th meeting.

The meeting was re-opened to the public and Mr. Hogrefe spoke again about his concern with the soils report. He referenced a letter dated 5/27/2008 from his attorney Nancy Saccente to Russ Huntington, which was then labeled **Exhibit H-1**. This letter was counter signed by Russ Huntington and stated that Mr. Hogrefe may be present for the soil test pits. The letter did not state that Mr. Hogrefe was required to be notified about future soil testing. Mr. Statile had witnessed all three rounds of soil test pits conducted by the applicant.

Mr. Hogrefe offered a "Test Pit Location Plan" dated 5/22/2014 which was labeled **Exhibit H-2**.

Hillsdale resident Christopher Kessel asked Mr. Zepponi if the impervious coverage changed between the Preliminary and Final Site Plans. Mr. Zepponi answered no. Mr. Kessel asked what Mr. Zepponi would consider as 'substantial' impervious coverage. Mr. Zepponi pointed to the Borough ordinances which limit impervious coverage.

At 11:10pm, the meeting was closed to the public.

Ms. Bailey stated that she is reserving the right to question Mr. Zepponi, P.E.

At approximately 11:15pm, the Board went into Closed Session to discuss personnel matters.

At approximately 11:30pm, the meeting was adjourned.

Respectfully submitted,

Caitlin Chadwick
Acting Deputy Secretary