

MINUTES OF THE JUNE 23, 2015 PLANNING BOARD MEETING  
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: M. Giancarlo, E. Lichtstein, Councilman F. Pizzella, T. Maalouf  
F. Franco, L. Calabria, Z. Horvath, J. Miano

MEMBERS ABSENT: M. Kates, J. Traudt, G. Biener

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

Chairman Giancarlo called the meeting to order with a reading of the Open Public Meetings Statement at approximately 7:35pm.

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

Kevin O'Brien of 61 Park View Drive voiced concerns regarding the Sober Living litigation and other issues.

MINUTES:

The *June 11<sup>th</sup>, 2015* meeting minutes were approved by the Board.

BILLS:

Invoices from the Board Engineer's office were approved by the Board for payment.

RESOLUTIONS:

***Resolution No. 2015-15; PZ-12-14; Zarsion Jinhui; Block 102, Lot 1; 90 Wierimus Road  
Approval of Major subdivision application with variances for the creation of 8 lots***

Board Engineer Statile discussed his letter to the Board dated June 23, 2015, stating when he appeared on site to observe the test pits, it came to his attention that many existing trees were never presented on the preliminary subdivision plan. Mr. Statile stated that a revised plan showing the correct number of existing trees as well as trees to be removed, should be submitted to the Board.

John Lamb, Esq., an attorney from the law firm who represents the applicant stated that his client would submit an amended preliminary subdivision application if the Board believed the change was significant. This would remedy any concern for a major change to the preliminary approved application.

The Board discussed tabling the resolution until the plan was submitted. Board Attorney Nabbie decided to add verbiage to the resolution as follows, "The quantity of trees to be removed shall be submitted to the Board Engineer, as depicted in a complete base plan in accordance with the Borough ordinance. If there is a substantial change above 219 trees, the Applicant shall apply for amended preliminary subdivision approval." Mr. Horvath made a motion to approve the resolution with the new verbiage and Mr. Franco seconded the motion. The Board was polled and the motion passed. The resolution was approved.

***Resolution No. 2015-16; PZ-05-15; Carol & Christine Tropea; Block 1505, Lots 6 & 7; 116 Clinton Avenue***

***Approval of Bulk variance application – front yard setback to reconstructed front steps*** was approved by the Board.

**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 Bailey, Esq.

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

Ms. Bailey began by stating that at the last scheduled hearing, the applicant requested adjournment due to a conflict of interest issue raised by Mr. Lamb. Board Attorney Ms. Nabbie stated that the conflict of interest issue was that Board Engineer Mr. Statile was appointed Township Engineer of Washington Township on March 23, 2015. Ms. Nabbie and Mr. Poller, Township Attorney for Washington Township, both agreed that this was a conflict. While Mr. Statile did not agree that he had a conflict of interest since none of his appointed official duties were in conflict, he volunteered to recuse himself. Chairman Giancarlo stated that he will appoint several Board members to a committee and that they will interview engineers to find a replacement Board Engineer for this application.

Mr. Statile then spoke on the issue, stating that he disagrees with Ms. Nabbie and Mr. Poller, and his new duties in Washington Township do not conflict with his Hillsdale Board duties. Mr. Statile explained how in 2014, he was one of three Borough Engineers for the Borough of Rutherford, and is currently Township Engineer for River Vale and Borough Engineer for Haworth as well, stating that engineers often do public work for more than one municipality. Furthermore, Mr. Statile stated that conflicts of interest usually occur when the professional had previously performed work directly for an applicant or directly for the opposition, but rarely when one performs work in an official role(s). Mr. Statile stated that his opinions on the application remain unchanged and his professional interpretations of the application prior to March 23, 2015 remain valid. Mr. Statile rescinded his May 11, 2015 report to the Board and stated that he is recusing himself so that the application can move swiftly and as a courtesy to the Board. Ms. Nabbie stated that conflict of interest issues are determined by the Court, and no one else can determine whether or not a conflict of interest exists.

The meeting was opened to the public and Mr. O'Brien stated that Mr. Statile was hired to represent Hillsdale first and asked why Mr. Statile cannot step down from his Washington Township position, in order to continue serving Hillsdale. Ms. Nabbie replied that even if Mr. Statile stepped down from his Washington Township position, it would not change the conflict of interest issue.

Mr. Statile then left the chambers.

Chairman Giancarlo stated that he intends to appoint a small committee to interview several candidates for Board Engineer on the Caliber application, and will return to the Board with a

recommendation. Chairman Giancarlo nominated Vice Chairwoman Calabria to be on this committee and Vice Chairwoman Calabria nominated Ms. Miano. Chairman Giancarlo will also be on the committee. Board Attorney Nabbie stated that once a candidate has been chosen, she will write a resolution stating the amount the candidate will be paid. Furthermore, a conflict check will be performed to be sure no one is disqualified.

Ms. Bailey stated that the applicant waives the time for the Board to act until August 25, 2015 or thereafter. Ms. Nabbie formally announced that the application will be carried to August 25, 2015 at 7:30pm in these chambers and there will be no further notice to the public. Ms. Nabbie also stated that Mr. Statile's reports and testimony which occurred after his March 23, 2015 appointment will be excised from the record.

DISCUSSION:

*Capital Project Review*

Ms. Nabbie stated that she spoke to Board Planner Grygiel regarding this bond ordinance and he informed her that there was nothing contained therein which would affect the Master Plan. Councilman Pizzella confirmed that the bond ordinance is for the purchase of equipment. Dr. Lichtstein stated he is surprised that the borough is purchasing a generator for the church as opposed to the school. Councilman Pizzella then informed the Board that the town is not purchasing the generator for the church but rather for emergency shelter purposes. The school was approached by the Borough to act as an emergency shelter, but declined, so the church was then approached instead.

The Deputy Board Secretary was directed to issue a memo to the Mayor and Council indicating that the bond ordinance was consistent with the Master Plan.

CLOSED SESSION:

The Board then went into closed session to discuss the pending Sober Living litigation and other matters. The Board returned from closed session. No action was taken by the Board in Closed or Open Session.

The meeting was adjourned at approximately 9:30pm.

Respectfully submitted,

Caitlin Chadwick  
Deputy Secretary