

**MINUTES OF THE MARCH 21, 2017 PLANNING BOARD MEETING  
BOROUGH HALL, BOROUGH OF HILLSDALE**

MEMBERS PRESENT: E. Lichtstein (late), F. Franco, M. Kates, Z. Horvath, L. Calabria, E. Alter  
Chairman M. Giancarlo, Vice Chairwoman J. Miano, Mayor D. Frank

MEMBERS ABSENT: Councilman F. Pizzella, G. Biener

EMPLOYEES PRESENT: Nylema Nabbie, Esq., Board Attorney  
Christopher 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 7:30pm.

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 9, 2017 Meeting Minutes* were approved by the Board.

INVOICES:

Invoices from *Gittleman, Muhlstock, Chewcaskie, LLP* were approved by the Board for payment.

RESOLUTIONS:

*Resolution No. 2017-07; John & Darline MacEwen; Block 1612, Lot 4; 153 Arthur St.*

*Approval of F.A.R and Bulk Variance Application for a two-story addition to existing single-family dwelling* was approved by the Board.

INTERPRETATION OF USE:

*Jean Bond; Block 1104, Lot 4; 434 Hillsdale Ave.*

*Interpretation of Use*

Jean Bond of 434 Hillsdale Avenue, Hillsdale was sworn in before the Board. Ms. Bond is to lease a retail store on Hillsdale Avenue to sell apparel for all ages; her customers have the option of adding decoration to their clothing such as sequins, rhinestones, or patches. Ms. Bond recently moved her business to 434 Hillsdale Avenue and received a permit for same. However when applying for her zoning permit, she informed Zoning Official Merlino that she wanted to conduct small instructional classes and small birthday parties at her business. This information led to Mr. Merlino recommending Ms. Bond file a Section 'b' application with the Planning Board known as a "Map or Ordinance Interpretation of Special Question [N.J.S. 40:55D-70b]." Ms. Bond testified these classes would be small in size and would serve the purpose of instructing customers how to best decorate their clothing, whether previously owned or purchased from her store. Ms. Bond also testified for birthday parties, all children attending would decorate one item such as a shirt or pillow

and the amount of people for such an event would be strictly limited due to the small size of the store. Ms. Bond is not changing the use of the property; the addition of instructional sessions would be accessory to the proposed retail sales use. She testified that previously, a phone repair store operated out of this location. Board Attorney Nabbie confirmed this is a change of tenancy rather than a change of use.

Owner of the property, Peter Wells, was sworn in before the Board at this time. Mr. Wells confirmed that prior to leasing the space to Ms. Bond, his tenant was a phone repair retailer and this location was accessory to the business' retail use to sell mobile phone accessories. Earlier still, the space was occupied by a nail salon. Mr. Wells stated the use of the property is retail, but the accessory use is not listed under the Borough's permitted uses. Therefore, the current Zoning Official was unsure about whether or not the use would be permitted, hence his advising Ms. Bond to seek an ordinance interpretation.

Ms. Nabbie stated according to the Municipal Land Use Law (MLUL), the Board can only take action on matters if an application is filed. With zoning appeals, a decision must first be made by the Zoning Official in order for an application for appeal to be filed. Mr. Wells testified that Ms. Bond did file an application with the Board not for an appeal, but for a "b" interpretation of a special question as listed on the application form.

Mr. Statile asked Ms. Bond how many people she would have in a class at a time and she responded less than ten people. Mr. Wells stated that regardless of use, due to the size of the store Ms. Bond is legally limited due to the permitted occupancy load. Mr. Wells stated that he is a licensed architect, professional planner, and construction code official, although he is not appearing at this hearing in any of those capacities. Mr. Franco asked Ms. Bond about marketing and how she obtains customers. Ms. Bond replied that she mainly obtains customers by word of mouth and advertising has not yet been necessary.

Ms. Nabbie stated in her experience the Hillsdale Board has always required notice for appeals applications including both "a" and "b" types and she would feel more comfortable if Ms. Bond noticed all neighbors within 200 feet; Ms. Nabbie recommended the Board require this before hearing any testimony. Mr. Statile stated if the Board is going to require notice when it is not required by the MLUL or the Borough's land use ordinance, then a request should be made to the Mayor and Council to have the Borough's ordinance changed. Mr. Statile stated if notice is not required in the ordinance, the Board has no authority to require it of any applicant. Board Engineer Statile stated the applicant followed the Borough's ordinance, paid the required fees for the application, and therefore placed on the agenda for a hearing.

At 8:05pm, Dr. Lichtstein arrived. Chairman Giancarlo asked the Board members to state their opinion on whether or not the Board should hear this matter; the members all stated their opinions. Ms. Calabria then asked Board Attorney Nabbie if she agrees or disagrees with Mr. Statile's statement that the applicant is before the Board lawfully. Mayor Frank stated this application should be remanded to the Borough's Zoning Official and he should be the one to decide on the matter. The Board members were equally split on the issue of whether or not the application should be heard at this meeting.

Ms. Nabbie asked the Board if they would be comfortable with her speaking with the Zoning Official on this matter. The Board members agreed to this plan.

At 8:21pm, Mr. Horvath made a motion to go into Closed Session. The Board entered Closed Session to discuss affordable housing. At 8:56pm, the Board returned to Open Session and Ms. Nabbie made an announcement that the Board discussed affordable housing and no formal action was taken.

At 8:56pm, the meeting was adjourned.

Respectfully submitted,

Caitlin Chadwick  
Deputy Secretary