

MINUTES OF THE MARCH 25, 2014 PLANNING BOARD  
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Alter, E. Lichtstein, F. Franco, J. Miano, J. Traudt, Z. Horvath  
Councilman Kelly, Mayor Arnowitz, L. Calabria

MEMBERS ABSENT: M. Kates, M. Giancarlo

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

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

OPEN TO PUBLIC:

Attorney John Lamb confirmed that Ira Weiner, Esq. of his firm will be representing Harold Walsky. Mr. Lamb then granted extension of time for Mr. Walsky's application to be heard on May 14, 2014.

At this time, Marisa Cefali of 6 Manson Place asked if Mr. Walsky would be required to re-contact his neighbors regarding the site plan application. Board Attorney Nylema Nabbie, Esq. confirmed that Mr. Walsky will be required to notify everyone within a 200 foot radius of his property by certified mail. Attorney Nabbie also confirmed that Mr. Walsky's application will be carried to the May 14<sup>th</sup> meeting.

Mark Daniels of 65 Pascack Road, Hillsdale, New Jersey, came forward with the intention of speaking about the Amato application, but was informed he would have the opportunity to do so later on in the meeting.

As no one further wished to speak, the open session was closed to public.

MINUTES:

The *March 12, 2014* minutes were approved by the Board.

RESOLUTIONS:

**Resolution 2014-05** for the 2014 appointment of Board Attorney was approved.

**Resolution 2014-06** for the 2014 appointment of Board Planner was approved.

**Resolution 2014-07** for the 2014 appointment of Board Engineer was approved.

The above resolutions were approved by the Board.

PUBLIC HEARINGS:

***PZ-04-13, Mario & Gina Amato; Block 504, Lot 1.01; 765 Hillsdale Ave. Bulk Variance Application for Pool and Patio Setbacks***

Counsel for the Applicant – John Lamb, Esq.

Mr. Lamb began by calling his client, Mario Amato as his first witness. Messrs. Lamb and Amato presented their case. In 2008-2009, Mr. Amato installed an in ground pool. Essentially, the purpose of Mr. Amato’s application is to request a variance for work that had already been completed about four years ago. According to Attorney Lamb and Mr. Amato, the Hillsdale Zoning Officer found two violations on Mr. Amato’s property, which were as follows:

- Setback of 10 feet (from pool apron)
- Areas where “pavers” were installed, which violates the wetlands buffer line; which was appealed because Hillsdale ordinance states “lot line.”

Mr. Lamb explained to the Board that Mr. Amato’s property line had been set up in a “zigzag” pattern when the lot was created, making any type of potential construction a difficult procedure. Attorney Lamb further informed the board that his client was not the original developer, however admitted that Mr. Amato did make improvements to his backyard in connection with the in-ground pool without first obtaining a variance. Mr. Lamb then requested that the entire patio and buffers section of the application be eliminated.

Board Engineer Statile gave his overview of the application saying that according to Borough ordinances, patios must be 10 ft. from all property lines. Mr. Statile also examined the original engineering plan for Mr. Amato’s pool, dated 2008, stating that the drawing had confirmed what he previously approved (but was not built). Mr. Statile went on to explain that the pool itself is compliant with the plans he approved. However the concrete patio is in violation, as it must be set 10 ft. from side yards.

Mayor Arnowitz then questioned as to whether or not Mr. Amato had an application in to NJDEP for the wetlands buffer disturbance issue. Mr. Lamb replied no, since May of 2013 there had only been investigation into a “corrective action plan,” which removes of the items in question.

Ed Alter commented that his understanding was that the Board has no say in wetland buffer issues, to which Mr. Statile concurred.

Photographs of the Amato pool and property were shown and further explained to the Board and public by both Mr. Lamb and Mr. Amato.

Mr. Lamb questioned Mr. Amato had he extensively landscaped his property. Next, Mr. Amato read a letter he received from his neighbor Mark Daniels, who resides on the east side of Mr. Amato’s property. The letter requested that Mr. Amato pay for the installation of a ‘french drain’ or seepage pit on Mr. Daniels property to solve a drainage issue on Mr. Daniels’ lawn, allegedly caused by Mr. Amato’s patio and retaining wall installation. Mr. Daniels expressed that it is not his goal to see Mr. Amato’s pool and backyard removed, only to fix the drainage issue on his property. Mr. Daniels also said the work on his property would be allowed only by contractors that he would

hire. He agreed to provide Mr. Amato with 3 estimates. Mr. Amato agreed to compensate Mr. Daniels.

Ms. Traudt asks if the Board Engineer was aware of the water problem on Mr. Daniels' property. Mr. Statile replied that no, he was not aware of this issue until today.

Mr. Daniels stated that currently, every time it rains, the water accumulates and lingers in his yard. The exact measurement of water accumulation was unknown. It was confirmed by Chairwoman Calabria and Mr. Daniels that Mr. Daniels will only allow the French drain installation to be undertaken by contractors he hires.

A discussion began between the Board members and Messrs. Lamb and Amato as to what the exact measurements of the concrete patio are. During this discussion, Councilman Kelley questioned as to if there were any other approvals granted in addition to the original plan. Mr. Amato replied no.

Next, the height of Mr. Amato's east planters was discussed as Mr. Kelly believed it to be two walls with landscaping in between. Mr. Statile explained that retaining walls in Hillsdale have to be their height, in distance from property lines and pointed out that Mr. Amato's wall is directly on the property line thus in violation of the zoning ordinance.

Attorney Lamb revealed that he and Mr. Amato did not submit a new NJDEP wetlands application because of cost. He further believed that the Amatos' large building setback (where the wetlands are) on the west side of the patio compensates for the violation of the Hillsdale ordinance on the east side.

Mr. Lamb asked Mr. Daniels how long the water remains in his yard after it rains. Mr. Daniels estimated it to be a couple days.

Mr. Amato stated that other homes nearby are at a higher elevation than his home is, and perhaps the water drainage issue on Mr. Daniels' property was not caused by him. He continued, explaining that his house was always at a lower elevation than Mr. Daniels' home. Mr. Statile concurred.

Mr. Lamb called his second witness, Frederick Voss, P.E. Mr. Voss prepared the plans for Mr. Amato and confirmed measurements on the concrete patio, planter, and planter wall. Mr. Voss also confirmed Daniels' property by observation, to be slightly higher than and sloping towards the West of Mr. Amato's property.

Mr. Alter asked when Mr. Voss originally got involved in this contract. Mr. Voss answered in 2007. Mr. Alter asked if that was prior to the patio and Mr. Voss responded yes. Mr. Alter further questioned if Mr. Voss was involved in that, to which Mr. Voss answered no.

Further discussion occurred as to elevations, offset measurements, and the original pool plan.

At 9:30pm, Councilman Kelly left the meeting for a fire call emergency.

The Board Engineer referenced a review report from 1995 in which he warned the Board at that time that this "zigzag" wetlands buffer line made this lot a 'challenged' piece of property and would be a development problem in the future.

Mr. Lamb asked for the Board to allow this limited intrusion into the wetlands buffer that exists by the pool patio.

Mayor Arnowitz made a motion to approve the Amato application as presented. Mr. Horvath seconded the motion. Mr. Alter voted in favor of it, Dr. Lichtstein voted against it. Mr. Franco voted in favor of it. Ms. Miano voted against it. Ms. Traudt voted against it. Chairwoman Calabria voted against it. Mayor Arnowitz voted in favor of it, and so did Mr. Horvath. The vote was a tie with 4 in favor and 4 against thus did not pass.

At 10:17pm, Councilman Kelly returned to the meeting.

A second motion was then made by Dr. Lichtstein to approve the application under the condition that Mr. Amato will submit revised plans to the Board showing that he will remove the easterly planter, and south pavers. Mr. Kelly could not vote on the motion due to his short absence. This motion was seconded by Mr. Alter. Mr. Franco voted in favor of it. Ms. Miano voted in favor of it. Ms. Traudt voted against it. Mr. Horvath voted in favor of it. Mayor Arnowitz voted against it. Chairwoman Calabria voted against it. Dr. Lichtstein voted in favor of it, as did Mr. Horvath.

Mr. Lamb said that with the removal of the planter, they would not agree to pay for any drainage improvements on Mr. Daniel's lot.

Thereafter the Board discussed scheduling of future applications, as well as the possibility of holding extra meetings if the schedule becomes encumbered and lengthy delays would occur between an applicant's presentations.

At 10:33pm, the Board went into Closed Session to discuss personnel matters.

At 10:38pm, the Board returned from Closed Session.

At 10:39pm, Chairwoman Calabria adjourned the meeting.

Respectfully submitted,

Caitlin Chadwick  
Acting Deputy Secretary