

MINUTES OF THE MAY 9, 2016 PLANNING BOARD MEETING
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Lichtstein, J. Miano, F. Franco, G. Biener, M. Kates
Z. Horvath, Vice Chairwoman Calabria, Chairman M. Giancarlo

MEMBERS ABSENT: Councilman F. Pizzella, Mayor D. Frank

EMPLOYEES PRESENT: N. Nabbie, Esq., Board Attorney
C. Statile, P.E., Board Engineer
C. Chadwick, Deputy Board 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.

DISCUSSION:

Board Attorney Nabbie informed the Board that Elliot Urdang may be representing an applicant coming before the Board and was concerned about a possible conflict of interest, as he acted as Board Attorney recently when Ms. Nabbie was absent. Ms. Nabbie asked the Board if they had any concerns – no one did.

Chairman Giancarlo announced that the Board will be wrapping up any public hearings by 10:00pm in order to go into Closed Session.

PUBLIC HEARINGS:

Caliber Builders; Block 506, Lot 1; Golden Orchards

Final Site Plan application for construction of age-restricted, single-family dwellings

Siobhan Spillane Bailey, Esq. – Counsel for Caliber Builders

John J. Lamb, Esq. – Counsel for Northgate Condominium Association

Ms. Bailey informed the Board that Caliber Builders has reached a settlement agreement with the Hogrefes in addition to the settlement previously agreed to with Northgate.

Chairman Giancarlo opened the meeting to the public at this time. As no one wished to speak, the meeting was closed to the public.

Conflict Board Engineer Keller was then sworn in. The following documents were marked:

Exhibit A-27: Eric Keller's Technical Review #3 Report/Letter dated May 6, 2016

Exhibit A-28: Settlement Agreement between Caliber Builders & Northgate

Mr. Keller spoke about his third technical review of the application and explained seasonal high water should be taken between January and April as the State regulates that is the appropriate time period. Mr. Keller stated that the Langan report was done in the appropriate time frame and the results were appropriate and satisfied the conditions of preliminary approval. Furthermore, NJDEP was satisfied. Mr. Keller then spoke about the Environmental Commission's report regarding the tree calculations. It was confirmed that 598 trees were noted for removal in Hillsdale and 1,196 trees proposed for replacement, as required by Hillsdale's ordinance. Mr. Keller spoke about each of the conditions of preliminary approval and how Caliber Builders complied with them, which concluded the quick summary of his report.

Ms. Bailey stated that she agreed with Mr. Keller's assessment of each of the conditions. Mr. Keller requested an as built survey of each individual home be provided to him from the applicant. Chairman Giancarlo stated this will be condition of Final Site Plan approval for Caliber Builders.

At this time, Dr. Lichtstein entered the chambers.

The meeting was then opened to the public to question Mr. Zepponi. As no one wished to speak, the meeting was closed to the public.

Dr. Lichtstein asked Mr. Keller when he received Mr. Lamb's letter and Mr. Keller responded he received it on Friday and read it today; Mr. Keller couldn't recall when he read Ms. Bailey's letter. Dr. Lichtstein stated he has comments regarding the timing of documents but will address it later. Ms. Miano stated she agrees with Dr. Lichtstein regarding the timing of documents. Ms. Kates had questions about the settlement agreement in relation to the tree buffer.

Mr. Lamb was sworn in. Ms. Bailey stated the tree survey conducted in 2002 was approved at preliminary approval. Ms. Kates stated that the Environmental Commission needs and updated tree survey to verify. Mr. Zepponi stated that since 2002, many trees have died or fallen in major storms. Mr. Horvath asked about electrical and telephone lines and Mr. Zepponi confirmed they will be below ground.

Mr. Keller made a clarification that the comments in his technical report refer to the Phase I plans and the overall plan as it relates to that which is in Hillsdale; any required revisions would need to be made to both sets of plans.

Dr. Lichtstein asked about the settlement agreements and Ms. Bailey confirmed there was no monetary consideration. Mr. Lamb confirmed Washington Township wanted an amended stormwater management plan, to which Caliber Builders complied. Mr. Lamb stated that Northgate requests the Board condition Final Site Plan approval to Caliber Builders on the conditions of the settlement agreement. Ms. Bailey stated she has no objection to the conditions. Mr. Keller asked if there is an operations and maintenance manual in accordance with NJDEP regulations for the stormwater management on site. He requested a recorded document which will survive with the property.

At this time, the meeting was opened to the public. Theresa Pendergast of 281 Ell Road, Hillsdale had concerns about the current flooding situation on Ell Road and whether or not the changes to the stormwater management system will worsen the existing flooding. Ms. Bailey stated that this has

been the most reviewed stormwater management plan she has ever seen. At the preliminary hearings, it was approved and survived three hearings in Supreme Court thereafter. Ms. Bailey continued that every change made to it has been approved by NJDEP and deemed an unsubstantial change by Mr. Keller. Ms. Pendergast asked what the recourse would be if the amended stormwater management system was found to worsen existing flooding conditions on Ell Road. Board Attorney Nabbie stated that any resident impacted may have a cause of action but there must first be something the adjacent property owner has done to cause it. Ms. Nabbie further stated that Caliber Builders has received every approval necessary. Mr. Zepponi explained how he does not foresee the infiltration system impacting Ms. Pendergast's property at all.

Laura Landesman of 297 Ell Road, Hillsdale stated that the water issues at her home seem to be getting progressively worse and asked if the changes made were to all of the infiltration system or just one side of it. Mr. Zepponi confirmed both side of the infiltration system were treated equally. Wayne Landesman, also of 297 Ell Road, Hillsdale had questions about the reliability of the infiltration system and questions about the buffer, as well as if traffic has been studied or analyzed. Ms. Bailey stated that since the plan was presented (both at the preliminary stage and the current final site plan stage) as a fully conforming lot where no variances needed to be sought, it was not legally required.

Jill Ronda of 273 Ell Road, Hillsdale asked whose responsibility it will be to perform routine maintenance on the stormwater management system and it was confirmed that it will be the homeowners association's responsibility to hire professionals to perform maintenance on the stormwater management system. Furthermore, the manual for the stormwater management system will contain a checklist and/or procedures for when and how it needs to be checked, cleaned, etc. The Homeowners Association will hire contractors to perform that work. Ms. Ronda asked for confirmation that the concessions made to Northgate won't have a negative impact on Hillsdale residents. Mr. Keller stated that regardless of the settlement agreement between Northgate and Caliber Builders, the design of the stormwater management system still needs to meet Borough requirements and upon his review of it he can confirm that it does meet those requirements. While NJDEP is looking at larger issues, Mr. Keller stated he and the Board are focusing on the more local issues involving the application. Ms. Ronda asked Ms. Nabbie to repeat the appeal process. Ms. Nabbie stated first that this process is not specific to the Caliber Builders application, however upon the approval of any application any interested party has 45 days to file an appeal from the date that the notice of approval was published in the newspaper.

At this time, the meeting was closed to the public.

Ms. Kates asked Mr. Keller to confirm no substantial changes were made on this application and what was the conclusion or finding of that based upon. Mr. Keller explained that he reviewed the approved preliminary plans as well as the newest plan containing the 28 revisions and reviewed each and every change made from preliminary to the newest plans. Mr. Keller further explained that what he constitutes as a major change would be the number of units gets changed, the road layout changes, etc. and none of those items changed on the plans since 2007. Therefore, the changes were not substantive. Ms. Biener asked if changes made based on conditions of preliminary approval were substantive and Mr. Keller confirmed they are not considered substantive.

Chairman Giancarlo invited closing statements at this time. Ms. Bailey thanked the Board and stated she welcomes and appreciates Ms. Kates and Ms. Biener's questions. She also stated that this project will be the envy of Bergen County as it will enable senior citizens to continue to live in the area and it will be very innovative.

There was then an opportunity for members of the public to give closing statements. As no one wished to speak, the opportunity was closed to the public.

Conditions of Final Site Plan approval were then discussed. Mr. Keller suggested the conditions be listed on the approved set of plans. It was confirmed that condition of Preliminary Approval, Condition N, pertaining to fencing, still needed to be addressed. Mr. Keller stated that as the resolution indicates the fencing be of a "durable material," typical PVC fencing is sufficient and is his recommendation; the applicant agreed to PVC fencing. Environmental Commission issues also needed to be addressed regarding types of trees and the number of trees being replaced on the site. Mr. Zepponi stated that the applicant is bonded for replacing two times the amount of what is being removed.

The Board members then had an opportunity to make closing statements. Vice Chairwoman Calabria thanked Dr. Lichtstein for reminding the Board what its role was in this application – to determine whether or not substantial changes were made between preliminary and final site plans. Vice Chairwoman Calabria also stated that she received Mr. Lamb's email late and did not receive Mr. Keller's review until that evening and therefore wants to wait until the scheduled May 17th hearing to vote on this application so she may read those two documents prior to voting. Ms. Calabria stated it would be irresponsible to vote prior to reading Mr. Lamb's letter and Mr. Keller's review. Ms. Miano and Dr. Lichtstein agreed with Vice Chairwoman Calabria.

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

Ms. Nabbie stated before making a motion, the Board must first consider whether or not there were substantial changes between the preliminary site plan and final site plan, and whether or not all the conditions of approval have been satisfied by Caliber Builders. Board members must state reasons why. Chairman Giancarlo asked the Board if they believe there has been a substantial change between the preliminary and final site plan. Mr. Horvath stated there have not been any substantial changes. Ms. Biener stated there have not been any substantial changes (reason based on Mr. Keller's review and Mr. Zepponi's testimony about the revisions). Ms. Kates stated she will wait until the vote to express her opinions. Mr. Franco stated there have not been any substantial changes, changes made were simply corrections made as requested. Vice Chairwoman Calabria stated there have not been any substantial changes and the essential character of the project has not changed. Ms. Miano stated there have not been any substantial changes. Dr. Lichtstein stated there have not been any substantial changes however he preferred to see single-family units instead. Chairman Giancarlo stated there have not been any substantial changes.

Chairman Giancarlo then asked the Board to indicate whether or not the applicant satisfied all conditions of preliminary approval. Dr. Lichtstein stated yes, the applicant satisfied all conditions of preliminary approval. Ms. Miano stated that she does not feel qualified to state whether or not the applicant has or has not met all the conditions of preliminary approval due to the late

submission of Mr. Lamb's letter and Mr. Keller's review. Vice Chairwoman Calabria agreed entirely with Ms. Miano. Mr. Horvath stated yes, the applicant satisfied all conditions of preliminary approval. Ms. Beiner stated yes, the applicant satisfied all conditions of preliminary approval. Ms. Kates stated yes, the applicant satisfied all conditions of preliminary approval, based on the agreement with the appropriate parties consulted. Mr. Franco stated yes, the applicant satisfied all conditions of preliminary approval.

Mr. Horvath then made a motion to accept this application based on the stipulations set forth by the attorney(s). Mr. Franco seconded the motion. The Board was polled. Dr. Lichtstein voted in favor of the motion. Ms. Miano abstained. Mr. Franco voted in favor of the motion. Ms. Kates voted against the motion. Mr. Horvath voted in favor of the motion. Ms. Biener voted in favor of the motion. Vice Chairwoman Calabria voted against the motion. Chairman Giancarlo voted in favor of the motion. The motion passed and the application was approved.

At 10:18pm, Chairman Giancarlo announced that the Board will be going into Closed Session to discuss affordable housing. Vice Chairwoman Calabria made the motion to enter Closed Session and Mr. Franco seconded it. The Board went into Closed Session.

At 10:54pm, the Board returned to Open Session. Ms. Nabbie stated that the Board discussed affordable housing and no action was taken.

The meeting was adjourned at 11:00pm.

Respectfully submitted,

Caitlin Chadwick
Deputy Secretary