

MINUTES OF THE OCTOBER 28, 2014 PLANNING BOARD  
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Alter, E. Lichtstein, M. Kates, M. Giancarlo, L. Calabria,  
Mayor M. Arnowitz, F. Franco, Z. Horvath, Councilman T. Kelley

MEMBERS ABSENT: J. Traudt, J. Miano

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 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 *September 23, 2014* meeting minutes were approved by the Board.

The *October 8, 2014* meeting minutes were approved by the Board.

BILLS:

The Board received invoices from *Gittleman, Muhlstock & Chewcaskie, LLP* and from *Christopher P. Statile, P.A.* All invoices from these two companies were carried to the November 4, 2014 meeting in order to accommodate the Board's request that bills be provided prior to meeting for review.

COMPLETENESS REVIEW:

*PZ-12-14; K & M Hillsdale, LLC; Block 1910, Lot 14; 68 East Liberty Ave.*

*Minor Two-Lot Subdivision* was deemed complete and assigned a public hearing date of November 25, 2014.

INFORMAL HEARING:

*Block 1205, Lot 8; John Paterno; 273 Broadway*

Mr. Paterno appeared before the Board on his own. He proposes to submit an application to build a multi-family apartment building in the C commercial zone. It would consist of one and two bedroom units for rent. Mr. Paterno explained to the Board that there would be a minimum of one garage per apartment. Regarding parking, the RSIS requires 30 parking spaces and Mr. Paterno is proposing 32. None of the apartment buildings will have elevators and there will be three entrances to the complex. Board Engineer Mr. Statile offered various concerns as well as advice: Mr. Paterno will need to put some apartments aside for COAH, the proposed stormwater management system will be a dead end, Mr. Paterno's engineer will need to revise the layout plan because building curb lines on top of property lines is not acceptable, and there needs to be more open green space available for planting trees.

Councilman Kelley and Mayor Arnowitz also expressed concern about the amount of open space containing asphalt that Mr. Paterno is proposing and suggested he cut back on the amount of units and paving he intends to use, which would allow more space for greenery.

PUBLIC HEARINGS:

*PZ-09-13; Laurjo Construction Co. & Joseph Gassib; Block 1109, Lots 2 & 3; 46 Beechwood Drive*

*Minor subdivision with variances to relocate dividing line between two lots*

Counsel for the Applicant – Raphael Jacobs, Esq.

Councilman Kelley, Vice Chairman Giancarlo, and Chairwoman Calabria all recused themselves from hearing the application for various reasons and left the hearing immediately following recusal. Mayor Arnowitz stated that he was involved with purchases of flood zone property for the town, as well as the Applicant's tax appeal and asked if he should recuse himself. The Board Attorney asked Mr. Jacobs if he would like the Mayor to be disqualified, but Mr. Jacobs stated that he had no issue with the Mayor voting on this application. Ed Alter took over as Acting Chairman.

Mr. Jacobs stated that the applicant's engineer had revised the plans according to Mr. Statile's suggestions by shifting the center property line. He explained the nature of the application to change the property lines between Lots 2 and 3 in order to make Lot 3 more conforming with the Borough's zoning ordinance. Regarding the submitted subdivision plan, Mr. Jacobs stated that the home shown on Lot 3 is conceptual, while the home shown on Lot 2 is existing. The Zoning Table on the Subdivision Plan presented by the Applicant incorrectly indicated the Applicant was seeking an FAR variance as to Lot 3. The Applicant's counsel confirmed the home depicted on Lot 3 was conceptual and therefore, the Applicant was not applying for a FAR variance as to such Lot.

Mr. Jacobs explained to the Board that in July, the subdivision plan had showed a 60 ft. frontage on Lot 3, and the current revised plan shows 65 ft. for Lot 3. The required lot frontage and lot width pursuant to the Borough's Zoning Ordinance is 75 feet. The proposed lot frontage and lot width is 65 feet, which means the proposed lot frontage and lot width as to Lot 3 are deficient by 10 feet. Similarly, in July 2014, the subdivision plan showed an FAR of 30% for Lot 2. With the shifting of the property line, the Applicant's FAR as to Lot 2 is 30.5%, which triggers a FAR variance. The Applicant did not provide planning testimony to support the grant of the requested relief.

Since Mr. Gassib had already constructed a large dwelling on Lot 2, any further relocation of the dividing line would cause a greater violation of the F.A.R. on Lot 2.

Mr. Statile stated that his biggest concern is the suitability of the lot to sustain a stormwater management system because part of the property is on wetlands (to be removed via State permit). He further advised that soil percolation field test pits must be performed on the property and made a condition of approval if the Board approves this application. He further said that the lot may not be suitable for development as proposed if stormwater management cannot be fulfilled. The applicant and his attorney acknowledged same.

Mr. Jacobs explained to the Board that landscaping plans shown on the subdivision plan are conceptual for Lot 3 and nothing is currently being proposed for Lot 3. Mr. Statile advised the

Board to decide on their conditions of approval before voting on this application because if and when the Applicant decides to build on Lot 3, he will not be required to reappear before the Board.

Acting Chairman Alter expressed concern about the water retention system and stated that he would like to make a percolation test a condition of approval as well. Mayor Arnowitz also expressed concern about the neighborhood, stating that it has a history of flooding. Mr. Statile confirmed for the Board that up to seven trees are being proposed for removal, based on the current subdivision plan.

Hillsdale ordinance requires four trees be replanted for every one tree removed in a flood zone. Plus the applicant must replace any lost trees with indigenous trees.

It was suggested that a landscape plan be another condition of approval and the applicant return to the Board for plot plan approval of the actual dwelling and site conditions related to stormwater management and plantings.

At this time, the meeting was opened to the public. Gloria Petingi of 41 Beechwood Drive came before the Board to voice her concerns. Ms. Petingi stated that her home floods several times a year, with up to six or seven feet of water. Roberto Petingi of 41 Beechwood Drive also voiced his concerns for the Board, stating that he is a science teacher and he understands the significance of this situation. Mr. Petingi stated that this area of Hillsdale floods frequently and he is very concerned for his family's safety with the construction of a new dwelling in the flood plain. Mr. Petingi also stated that the Applicant's permit from the NJDEP is no longer valid according to State staff. Mr. Statile said he will confirm this with NJDEP versus the Permit Extension Act.

At this time the meeting was closed to the public.

Mayor Arnowitz stated that Hillsdale has acquired seven to eight lots and several homes in this flood zone in an attempt to stop development there and provide for more flood storage. He further stated that this is a very dangerous area for development, as severe flooding occurs there every year.

Mr. Statile expressed concern that any proposed home on Lot 3 would be located next to the freshwater wetlands. Since there are no protective buffers, these wetlands will retain water in the summer and cause a nuisance to the new property owners as they are immediately adjacent to the lot.

Acting Chairman Alter stated that he has been on the Board for this application since it began in 2005, and while he understands the Applicant's intentions, he also takes the public's concerns regarding flooding very seriously.

At this time, Acting Chairman Alter asked for a motion from the Board. As no Board member made a motion, Acting Chairman Alter made a motion to deny the Applicant subdivision as well as a variance approval. Mayor Arnowitz seconded the motion. In order to avoid any confusion, Acting Chairman Alter explained to the Board that if they vote in favor of this motion, or "yes," then they are agreeing to deny the Applicant approval. The Board understood this. Dr. Lichtstein voted against the motion. Acting Chairman Alter voted for this motion, and so did Ms. Kates, Mr. Franco, Mr. Horvath, and Mayor Arnowitz.

Therefore, the motion passed and the subdivision application was denied. The sought bulk variances were also denied.

The meeting was adjourned at approximately 9:30pm.

Respectfully submitted,

Caitlin Chadwick  
Acting Deputy Secretary