

MINUTES OF THE SEPTEMBER 23, 2014 PLANNING BOARD
BOROUGH HALL, BOROUGH OF HILLSDALE

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

MEMBERS ABSENT: None

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 at approximately 7:00 pm with a reading of the Open Public Meetings Statement.

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

Marisa Cefali of 6 Manson Place, Hillsdale, raised concerns regarding the Walsky (*Jeanne Marie Associates, LLC*) multifamily use application. The board explained that the continuance of the application will require a re-notice to property owners within 200 ft. of the site.

MINUTES:

The **August 26, 2014** meeting minutes were approved by the Board.

BILLS:

Invoices No. 417.008, 417.009, and 417.010 from C.P. Statile, P.A. were approved by the Board for payment.

DISCUSSION:

PZ-08-12; Jeanne Marie Associates, LLC; Block 1212, Lots 15 & 16; Esplanade & Patterson St. Major subdivision & site plan with use variances application for new multi-family housing complex in Industrial Zone

Concerns regarding the application were discussed, specifically potential default approval for lack of authority to continue hearings. John Lamb, Esq. colleague of the applicant's attorney Ira Weiner, Esq. informed the Board that the applicant and his attorney are in no way seeking to obtain default approval. Mr. Lamb stated on Mr. Weiner's behalf that the applicant waives the time restrictions for Planning Board action, and extends it 60 days. Mr. Lamb further informed the Board that Mr. Weiner is still waiting to discuss the status of the application with his client, Mr. Walsky. If an additional meeting is scheduled, Mr. Walsky will be required to re-notice the public.

Block 2002, Lot 28; Pascack Valley Tennis Courts; Wood Dale County Park

Bergen County is building five new tennis courts behind the Pascack Valley High School and has already started removing trees. Although Bergen County is not required to obtain *approval* from the Hillsdale Planning Board, they are required to submit plans to the Hillsdale Planning Board 45 days in advance of beginning construction for review and comment purposes. Only after Mr. Statile reached out to County Counsel did they submit plans to the Board for review. The concern

is the amount of clearing and trees being removed, and how the County will reforest the site. Mr. Statile explained to the Board that he walked the property both before and after the trees were removed. After the trees were removed, he and Jack Stubbs measured the caliper of all trees removed which totaled 1770 inches.

Mr. Statile confirmed that all the County is required to do is submit plans to the Board for review and comment. Bergen County is not required to appear before the Board and make a presentation, however, County Counsel agreed to do so if the Board asks them to. The Chairwoman brought to the Board's attention that Neglia Engineering is both the Hillsdale Borough Engineer and the Engineer for this County project. Mr. Statile stated that if there is a perceived conflict of interest, the professional should typically let both clients involved know that he/she is working with the other and withdraw if either objects. While on the subject, Mr. Statile announced to the Board that he has contracts with Bergen County as well. Mr. Horvath expressed concern about health safety for children playing sports or participating in other activities in this area, considering the high amount of dust that the construction has been producing. Mr. Statile informed the Board that concerns of that nature should be brought to the attention of the Bergen County Parks Department.

Ms. Nabbie stated that she would contact County Counsel and request them to appear before the Board within 45 days of their plan submission, for either the October 8 or October 28 Planning Board meetings.

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;
Continuation of July 24, 2014 Special Public Hearing***

Counsel for the Applicant – Siobhan Spillane Bailey, Esq.

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

Mr. Lamb began by reminding the Board of his letter requesting to have Caliber Builders either amend their plans or have this application dismissed without prejudice. Ms. Nabbie explained to the Board that they could honor this request and vote on it, or they could continue with the hearing. A motion was made *to continue with the public hearing* and the majority of the Board members were in favor of it.

Ms. Bailey explained to the Board that the reason why the previous Board Attorney, Mr. Ritvo, banned legal correspondence to the Board was because ever since the Preliminary hearings, the opposition has been attempting to oppose this application as though it were in Superior Court under different rules, which are not the procedures for municipal land use law.

Ms. Bailey elaborated that the Hillsdale Planning Board cannot rule on matters outside of what factually occurs at public hearings. She further stated that this is also a collateral attack on an government agency permit, and if the opposition doubts the validity of agency permits they need to address that with the issuing agency, not the Board. Furthermore, the role of the Planning Board is this application is not to question agency matters, but to determine if significant changes have been made between the Preliminary and Final Site Plans.

Mr. Lamb then stated that the applicant has committed ‘fraud’ claiming that Caliber Builders did not receive approval from the Bergen County Soil Conservation District (on the submitted site plans) and that there was a revised drainage report that was not provided to the Board for review.

Ms. Bailey said that she and her client intend to have site engineer Zepponi testify again and that all of these matters should be discussed under his testimony, on the record. She repeated that this is not a courtroom and that municipal land use law dictates.

Mr. Lamb began his cross-examination of Soils Engineer Boyer’s testimony. Mr. Boyer reviewed hearing transcripts of previous testimonies, but did not review Mr. Thonet’s reports, Mr. Darmofalski’s Soils Report dated 6/9/2008, or Mr. Statile’s 7/16/2013 report that confirmed Mr. Darmofalski’s Soils Report.

Mr. Lamb asked Mr. Boyer if the 31 dwelling units in Hillsdale all have proposed basements. Mr. Boyer responded that they do, as evidenced by the labels “BF,” which he interprets to mean “basement floor.” Furthermore, there is a Bobby Fleshman, Public Works Director elevation assigned to each unit.

Several documents were then marked. They are as follows:

- Exhibit O-16:** a portion of the Final Site Plan
- Exhibit O-17:** Stormtech SC-740 chamber
- Exhibit O-18:** Enlarged copy of “Log of Test Pit TP-23”
- Exhibit O-19:** Soil survey of Bergen County
- Exhibit O-20:** Page 1 of ENTEC’s Stormwater Management Report
- Exhibit O-21:** Page 9.5-9 of the NJ Stormwater Best Management Practices Manual
- Exhibit O-22:** Page 9.5-9 of the NJ Stormwater Best Management Practices Manual, “Soil Characteristics” section
- Exhibit O-23:** Excerpt from the NJ Stormwater Best Management Practices Manual
- Exhibit O-24:** Chapter 9A “Standards for Individual Subsurface Sewage Disposal Systems” of the *Subsurface Sewage Disposal Systems*

Mr. Boyer testified that all 25 test pits were laid out and their locations confirmed by a surveyor from Lapatka Associates, approximately 1-2 days prior to excavation. It took approximately 10 minutes to dig each test pit and investigate it, after which it was subsequently backfilled. All 25 test pits were completed in one day and Mr. Boyer reviewed Mr. Darmofalski’s soils report prior to preparing his soils report. Mr. Lamb continued to question Mr. Boyer regarding the test pits, asking him various questions. Mr. Boyer stated that the NJ Stormwater Best Management Practices Manual was not in effect because it would only apply to a project still seeking NJDEP approval, not a project that had already obtained it. Mr. Lamb continued to speak about the NJ Stormwater Best Management Practices manual and passed out exhibits of same. Mr. Lamb questioned Mr. Boyer about Mr. Darmofalski’s soil logs and Mr. Boyer responded that he can only testify to Langan’s test pits and soils report. Furthermore, Mr. Boyer stated that he cannot verify where and how Mr. Darmofalski’s test pits were located.

Mr. Boyer agreed with Mr. Lamb that water was found in 5 out of the 25 test pits. However, Mr. Boyer explained to the Board that none of these 5 test pits showed any evidence of *groundwater*. The “ponding” found in TP-16 was from seepage from melting snows, not groundwater. Mr. Boyer further explained that groundwater causes more than slight “sloughing” observed and can cause a collapse of excavation. No groundwater was found in any of these 25 test pits.

The depth of the Stormtech SC-740 infiltration system for each dwelling was then discussed at length. Mr. Boyer explained that the invert of the infiltration system should be two feet below the basement slab, not the roof of the device. Ms. Bailey then stated that Conditions D and P of the Preliminary Resolution were very specific as to Mr. Boyer’s role in perform test pits to assist Board Engineer Mr. Statile in confirming the previous soil tests used for design and State permits.

Mr. Boyer marked up an enlarged copy of his “Log of Test Pit TP-23” for Mr. Lamb. Mr. Boyer said that this test pit did not have groundwater, and not have a negative impact on the storage capacity of the infiltration system.

Exhibits O-19, O-20, O-21, O-22, O-23 and O-24 were then discussed at length. Mr. Boyer stated again to the Board that the water found in these five test pits was a seepage condition and not representative of the groundwater table. Mr. Statile then confirmed with Mr. Boyer that soil mottling was not encountered in any test hole, that groundwater was not present at the depths excavated.

Ms. Bailey waived the time frame for the Board to act and Chairwoman Calabria announced that Caliber Builders will continue the application hearings at the Board’s November 25, 2014 meeting, which will begin at **7:00pm** instead of 7:30pm. The Deputy Secretary confirmed that she will notify two newspapers of the meeting time change, as required. In addition, adequate notice will be provided on the Borough website as well as in the municipal hall, at least 48 hours in advance of the meeting.

The meeting was adjourned at approximately 10:45 pm.

Respectfully submitted,

Caitlin Chadwick
Acting Deputy Secretary