

MINUTES OF THE AUGUST 14, 2013 PLANNING BOARD  
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Alter, M. Kates, M. Giancarlo, F. Franco, L. Calabria, J. Miano, Z. Horvath,  
J. Traudt,

MEMBERS ABSENT: E. Lichtstein, Councilman DeGise, Mayor Max Arnowitz

EMPLOYEES PRESENT: H. Ritvo, Esq. Board Attorney  
C. Statile, P.E., Board Engineer  
C. Reiter, P.P., Board Planner  
C. Wyssenski, Deputy Board Secretary

Chairwoman Calabria called the meeting to order with a reading of the Open Public Meetings Statement.

DISCUSSION:

Mr. Ritvo announced the Board will enter Closed Session following the end of the Public Hearing to discuss 100 Park Avenue litigation and personnel matters.

Chairwoman Calabria then explained to the Board and public the Caliber Builders application was before the Board for Final Site Plan Approval and all comments by the public should be made during the application portion of the hearing not during the "Open Public Hearing" session. Mr. Ritvo explained that the application is before us solely for the applicant to prove that the conditions of preliminary approval have been or can be met.

Chairwoman Calabria then addressed her concerns over current procedures and protocol and asked Mr. Ritvo for guidance. Mr. Ritvo discussed with the Board the procedure of opening the meeting to the public and members of the public discussing active applications with the Board. He indicated that public notice requirements are quite clear and the Board cannot entertain comments for the public on a pending application that is not listed on that evening. The language listed on the agenda for the Open Meeting to Public section will be re-worded for clarity to the following:

OPEN MEETING TO PUBLIC

(On any items/issues other than those listed on the agenda below, as well as any other items that come before the Board on another evening)

The Board's second concern was whether or not a resident has the ability to obtain reports from the Borough Clerk through an OPRA request, when the Board itself hasn't heard the application or hasn't yet seen those reports themselves. Mr. Ritvo has instructed that as long as the report is filed with the application, the answer is "yes", any resident can obtain a copy through an OPRA request. Anything emailed or put forth **by any objectors** will be handled quite differently, however. Mr. Ritvo has advised that he will have to review any materials that an objector may have put forth first, in order to determine it's factuality before distributing it's contents to the Board for consideration. Finally, the Board's last concern was whether or not copies of a report being distributed to the Board could also be made available to residents at the same time during our meeting, as opposed to having a resident OPRA them the following day with the Borough Clerk. Mr. Ritvo has responded in the affirmative indicating that we have the ability to provide copies to residents at the meeting, as those reports are part of the application.

## MINUTES

The July 30, 2013 meeting minutes were approved.

OPEN MEETING TO PUBLIC: As no one wished to speak on matters not listed on the agenda, the meeting was closed to the public.

## PUBLIC HEARINGS:

### ***PZ-1-13, Robert & Jeanne Conti, Block 1524, Lot 1, 176 Knickerbocker – Proposed Addition to Existing Single-Family Dwelling; Setback, F.A.R., and Impervious Coverage Variances.***

Brain Rader, Esq., the applicant's attorney had requested an adjournment to the next available Public Hearing. The Board granted the request and carried the application to the October 9, 2013 Public Hearing.

### ***PZ-7-13, Caliber Builders, Block 506, Lot 1, Final Site Plan***

Chairwoman Calabria stated she contributed money to the Ell Woods Coalition, but indicated that this would not impact her decision on the application. However, Chairwoman Calabria made clear to Mr. Huntington that if he was not confident in her ability to remain impartial, that she would recuse herself immediately, without hesitation, and would have the Vice Chair resume the meeting. Mr. Huntington advised that he was confident that the Chairwoman would be able to proceed with impartiality. As a result, the Chairwoman continued without interruption.

Mr. Huntington, Esq. the applicant's attorney was present and reiterated the instructions that Mr. Ritvo had discussed earlier with the Board. He informed the Board that the application is for Final Site Plan Approval from the granted Preliminary Site Plan Approval by the Board. The application must meet the conditions set forth in the resolution memorialized by the board in 2007. Mr. Huntington wished to begin with Mr. Statile's June 10, 2013 review report.

Mr. Lamb, the attorney for Northgate Condominium Association was present. Intervening in the discussions, he first began by indicating that he represents the association and he asked his client that they not speak individually during the public session, although they may. Mr. Lamb then objected to Mr. Statile sitting for the application because of Mr. Statile's position with the Washington Township Planning Board of Adjustment for the CVS application.

Mr. Ritvo swore in Mr. Statile and asked several questions of him regarding the CVS application that he is representing the Washington Township *Zoning* Board on. Mr. Statile has been reviewing the application for the *Zoning Board*, has no financial interest in the application. Furthermore, the property is not located within 200 ft. of the Caliber application, and on both applications he is protecting the public's interest by representing the land use boards, not the applicants, or any private applicants. The Board determined there was no conflict of interest with Mr. Statile.

Mr. Lamb objected to several other issues including the public notice provided by the applicant and the soil testing that was performed. Mr. Lamb questioned if the Board had jurisdiction to hear the case this evening. Mr. Lamb submitted a multi-page report prepared by Mr. Thonet, PE for the Board to review.

Mr. Huntington stated public notice was not necessary for Final Approval of a Site Plan and disagreed with several points made by Mr. Lamb, specifically the issue regarding soil testing. Mr. Statile indicated he was satisfied with the soil testing done by the applicant, and explained the procedures taken by the applicant and his office.

Mr. Huntington asked that the Board carry the application to the next available meeting date. The Board carried the application to October 9, 2013.

CLOSED SESSION: The Board went into Closed Session to discuss 100 Park Avenue litigation and personnel matters.

When the Board returned from Closed Session, the meeting was opened to the public. No one wished to speak. The meeting was closed to the public.

Respectfully submitted,

Christie Wyssenski, Deputy Board Secretary