

MINUTES OF THE NOVEMBER 5, 2013 PLANNING BOARD  
BOROUGH HALL, BOROUGH OF HILLSDALE

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

MEMBERS ABSENT: Mayor Max Arnowitz, Councilman DeGise, J. Miano,

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.

OPEN TO PUBLIC: As no one wished to speak, the meeting was closed to public.

MINUTES

The October 29, 2013 meeting minutes were approved by the Board.

RESOLUTIONS:

***PZ-1-13, Robert & Jeanne Conti***

Mr. Ritvo, Esq. prepared a resolution to deny the variance application. Mr. Alter made a motion to approve the resolution, seconded by Ms. Traudt. The Board voted unanimously to pass the resolution, with the exception of Mr. Horvath who was ineligible to vote.

PUBLIC HEARINGS:

***PZ-12-12, 225 Washington Ave., MJL, LLC, Block 1406, Lot 3, 150 Magnolia Ave., Interpretation & Use Variance Request***  
**Continuation of Public Hearing from September 11, 2013**

Mr. Bell, Esq., the applicant's attorney and the applicant's planner Joseph Burgis, P.P. were present. Mr. Burgis indicating he would be testifying simultaneously to both the "a" variance – appeal of an administrator officer decision, and a "d" variance – use variance.

Mr. Burgis testified that in his professional planning opinion the Zoning Officer erred when not issuing a zoning permit for Ms. Lally. Simply, the home is pre-existing non-conforming two-family home with predates the zoning ordinance and should be allowed to continue as such. He also said the house is not a 'halfway house,' treatment center, nor will it be used as such. Mr. Burgis said the house is simply a single-family dwelling in a residential zone. In his professional opinion, the Board need not be concerned with who is residing in the home because of its pre-existing non-conformity. Several photographs were submitted into evidence for the Board to review.

Mr. Burgis testified to the inherently beneficial use of the application and how the application meets both the negative and positive criteria. State and federal case law has ruled that sober living facilities meet the positive criteria for "d" variances by promoting people in recovery back into the community. The impact to traffic is minimal, there is no impact to the school system, a goal of the Master Plan is met by producing pedestrian traffic through the commercial areas.

The Board asked Mr. Burgis several questions regarding his testimony and the application itself. The Board asked if there would be any type of signage or advertising the house, how difficult the eviction process was for a someone who is “disabled,” rental costs, quality of the tenants, separate leases, who is responsible for the rental payments to Ms Lally.

The Board asked Mr. Burgis if the Oxford House was the best business model from Ms. Lally to be following and what personal services are typically offered, things like room cleaning and laundry services. Mr. Burgis reminded the Board he is a Professional Planner and not an Oxford House expert, therefore could not answer the questions.

The Board asked Mr. Burgis if it would be acceptable, as proposed, for Ms. Lally to discriminate and restrict the home to age 30 + and male. They also asked him the difference between a rooming and boarding house. Mr. Bell said he will provide the definition of each prior to his summation. A Board member had asked how the leases would be held. Mr. Bell indicated there will be four individual leases for each of the four units.

OPEN MEETING TO PUBLIC (public’s cross-examination of Mr. Burgis):

Matthew Scozzafava, 167 Magnolia Avenue asked several questions regarding what an inherently beneficial use was, if any solar panels are proposed, and if any of the beds were reserved for “poor” people. He also asked about the restriction of male and female residency, prior relationships with residents, residents living on the third story of the home, urine screening, and if there were any letters from any of the networks Ms. Lally is involved with supporting the application. Mr. Scozzafava asked if there are any recreational facilities in the rear yard and if the parking is sufficient.

Mary Ellen Breen, 183 Magnolia Avenue believed that an inherently beneficial use should be regulated by a State agency and that handicapped people should not be allowed to be “taken advantage of:

Diane Scozzafava, 167 Magnolia Avenue questioned what the difference between an apartment and sober living, and if the renal apartment is really just an to be used as an apartment versus a treatment facility. Ms. Scozzafava asked if the intended treatment plan was to have adult recovering alcoholics living together. She said she understood the pre-existing nonconformity, however, the burden appears to be on the neighborhood if the application is approved. Mr. Burgis indicated he did perform a study of the other homes in the area and this home does fit the character of the neighborhood.

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Mr. Ritvo will review the case of the Oxford Houses. Mr. Burgis will confirm the section of the Mater Plan regarding increasing the pedestrian population in downtown area. The application will be continued at the January 8, 2014 Public Hearing of the Board for the Reorganization Meeting.

Respectfully submitted,

Christie Wyssenski, Deputy Board Secretary