

HILLSBOROUGH TOWNSHIP PLANNING BOARD

APPROVED PUBLIC MEETING MINUTES

October 06, 2022

Vice Chairman Neil Julian called the Planning Board Regular Public Meeting of October 06, 2022 to order at 7:30 p.m. The meeting was held in the Courtroom of The Peter J. Biondi Building. All stood for the Pledge of Allegiance.

Acting Chairman Julian announced: This meeting has been duly advertised according to Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975 ("Sunshine Law"). Notice of the 2022 Annual Meeting Schedule has been provided to the officially designated newspapers, the Township Clerk, posted on the Township's Website, and available at the Hillsborough Township Municipal Complex.

Application documents have been made available on the Township's website at <https://hillsboroughnj.civicclerk.com/> and complete applications files are available in the Planning and Zoning Department for inspection, in accordance with the public meeting notice.

ROLL CALL

Mayor Shawn Lipani – Present
Robert Wagner, Jr. - Absent
Committeeman Frank DelCore – Arrived 7:41pm
Robert Peason – Present
Carl Suraci, Chairman – Absent
Neil Julian, Vice Chairman – Present

Nathan Santaromita – Present
Ron Skobo – Present – Present
Kenneth Hesthag, Secretary – Present
John Ciccarelli (Alt. #1) – Present
Patricia Smith (Alt. #2) – Absent

Board / Township Professionals: David K. Maski, PP, AICP, Township Planning Director; David Kois, PP, AICP, Deputy Zoning Officer; Eric Bernstein, Esq., Board Attorney (Eric M. Bernstein & Associates); Todd Hay, PE, CME, Board Engineer (Pennoni Associates); Michael Lombardozi, CSR, Board Court Reporter; and Caz Bielen, Township Videographer (Premier Media).

CONSIDERATION OF MEETING MINUTES

September 08, 2022

A motion to approve was made by Mr. Skobo, seconded by Mayor Lipani. No comments.

Roll Call: Mr. Skobo - yes; Secretary Hesthag – yes; Mr. Ciccarelli – yes, with the abstention from the application portion; Committeeman DelCore – yes; Mayor Lipani – yes; Acting Chairman Julian – yes. Motion carries.

CONSIDERATION OF RESOLUTIONS

None

Mr. Bernstein asked for a motion to suspend the order of business to allow for the application to be moved up.

A motion was made by Mayor Lipani, seconded by Mr. Ciccarelli. All were in favor.

APPLICATIONS - PUBLIC HEARING

- **Homestead Road, LLC – File 21-PB-25-MS/MSPV** – (TOD: 10-31-22) Block 200.10, Lots 32 & 33 – 203 Homestead Road and 189 Homestead Road. Applicant seeking preliminary and final major subdivision approval (determined a minor subdivision); preliminary and final major site plan approval; 'c' bulk variances; and waivers, to consolidate the two lots and then subdivide into two reconfigured lots; and demolish all existing structures to construct two warehouse/office buildings, with associated stormwater, parking, and site improvements, on Property in the TECD, Transitional Economic Development District. (EC Review: 03-28-22) (*Revised plans/report submitted 04-21-22 and 04-28-22/ Additional plans/exhibits/documents submitted 06-24-22*). **Application continued from July 07, 2022 without further notice. Applicant's Attorney to REQUEST AN ADJOURNMENT FROM THIS AGENDA at this meeting, to an agenda date to be determined by the Board. Time of Decision Extension submitted through 12-31-22.**

Kaitlyn Michko, Esq. from the Law Firm of Savo, Schalk, Corsini, Gillespie, O'Grodnick & Fisher, P.A. requested an adjournment of the application hearing in light of the Board's recommendation that a new survey be done to address any changes in the existing site conditions due to the farmer's plowing of the field. As per conversations had with the Board's professionals, Van Cleef Engineering will resurvey the site specifically noting any changes to the grading, wetlands, slopes, and tree removal, in order to update the existing features sheet of the site plan. The applicant is requesting the December 08 hearing date, and the applicant has filed a consent for the extension of time through year end.

Mr. Bernstein read the application summary to identify the application referenced, for the record.

Mr. Bernstein indicated he had sent multiple letters to Mr. O'Grodnick, not just for the reconfiguration of topography but other environmental issues that will need to be addressed before or at the next meeting.

Committeeman DelCore asked if the new survey would be submitted well in advance of the December 08 meeting so that it could be posted and available to the public.

PLANNING BOARD MEETING MINUTES
October 06, 2022

Ms. Michko said yes, that is the plan.

Mr. Bernstein said it must be available to the objectors as well. Mr. Bernstein asked if any of the objectors were present.

Brian Tarantino, Member Representative of ‘Stop Warehouses and Trucks’ (SWAT) said he had no objection to the extension and next hearing date.

Scott Gross, Member Representative of ‘Local Citizens Against Traffic’ (LCAT) stated he had no issues.

A motion to continue Application #21-PB-25-MS-MSPV to December 08, 2022 without further notice and with the extension for the time of decision through December 31, 2022, was made by Mayor Lipani, seconded by Mr. Ciccarelli.

Mr. Ciccarelli asked that the new survey be prepared to highlight any changes from the previous existing conditions plan.

Roll Call: Mr. Peason – yes; Mr. Santaromita – yes; Mr. Skobo - yes; Secretary Hesthag – yes; Mr. Ciccarelli – yes; Committeeman DelCore – yes; Mayor Lipani – yes; Acting Chairman Julian – yes. Motion carries.

Mr. Bernstein reiterated for the purpose of the record and for those who will watch online; there will be no further notice. This matter will be heard on December 08, 2022.

PLANNING BOARD BUSINESS

- Update on code violations at 203 Homestead Road - presented by David Kois, PP, AICP, Deputy Zoning Officer

Deputy Zoning Officer, David Kois, PP, AICP advised he had conducted a site investigation for the property at 203 Homestead Road on August 17, 2022, in response to complaints that there was disturbance going on in terms of tree clearing. Mr. Kois said he went to the site and witnessed some trees that had been removed and disturbance of some of the wetlands on the property, and disturbance to the stream corridor area. I issued a Stop Work Order on August 22, ordering the property owner to stop all activity with regards to the critical areas on the property. On September 15, I walked the site in more detail with the Farmer and became aware of the solid waste issues on the property. On September 23, I issued a clarification to the Stop Work Order that a Stop Work Order was still in effect, in response to comments made by the property owner. At this time there is currently a New Jersey Department of Environmental Protection (NJDEP) case number. Originally it was filed for the wetlands and stream corridor disturbances, but since then, the solid waste complaint has been added to the same case number.

Mr. Kois said on September 28, another site visit was conducted, including himself, and a representative from the NJDEP pertaining to wetlands and stream corridor disturbed. Up to this point it is still an active investigation. To date we do not have any findings from the NJDEP. I expresses to the property owner in my correspondence that the Township reserves its full rights to anything in the ordinance regarding tree mitigation, the wetlands, or stream corridor. We are waiting for the NJDEP and any other authority going to the property to make sure everything is being done correctly, including the Soil Conservation District (SUSCD).

Acting Chairman Julian asked if they discussed any timeframes.

The NJDEP indicated the solid waste team was going to be responding to it separately. We do not have a date for when the solid waste team will be conducting their investigation on the property. We currently do not have a timeline.

Committeeman DelCore asked if the NJDEP needs to have a resolution prior to this application continuing.

Mr. Bernstein said he believed the issues before the Board, as well as the topography issue and related, is more than the standard conditions. There are two issued, as Mr. Kois indicated, one being wetlands, the other solid waste. The impact of either or both on NJDEP’s investigation may impact the plans before the Board now and even the plans submitted prior to the December 08 meeting. In and of itself, it is not a conditional issue that can be addressed. We will see where we are when and if the NJDEP comes back with a response.

Acting Chairman Julian thanked Mr. Kois for his reporting.

Acting Chairman Julian called for a motion to open the floor for business not on the agenda.

A motion to open the floor to the public was made by Mayor Lipani, seconded by Mr. Ciccarelli. All were in favor.

BUSINESS FROM THE FLOOR *(For Matters Not on the Agenda)*

Committeeman DelCore noted the application cannot be discussed; it is on the agenda.

Niyatik Shah – 3 Deer Run

PLANNING BOARD MEETING MINUTES
October 06, 2022

- Ms. Shah asked if she could ask a question related to what was just discussed.

Mr. Bernstein said if it involves the application, no.

Mayor Lipani said Mr. Kois explained the fact of what is going on. We are now in a holding period until the NJDEP comes back with comments. The application is coming back on December 08, so there may be answers to your questions at that point.

- Ms. Shah said generally speaking, when the State has to get involved, it would be best to wait for the State to rule for any application before going forward.

Mr. Bernstein said there is nothing before the NJDEP of this sort for any other application. The Board is waiting for the NJDEP to rule on its findings for the application that will be before the Board on December 08.

Committeeman DelCore comments that in general, the Board cannot delay an application until all outside agency approvals have been received.

Mr. Bernstein said the difference is that there are two pending violations on the subject property. Standard reviews for an application are conditioned. This one is different because there are complaints involved.

Brian Tarantino - 235 Fairfield Lane (Member Representative of SWAT)

- Mr. Tarantino asked to have a Public Advocate appointed to represent the interests of the local community in order to correct the grave imbalance of power that exists regarding the proposed warehouses. He encouraged the residents to review the application packets posted but stated many of the items are much too detailed for the layperson.
- Mr. Tarantino said there is a high level of concern and fear by the residents. For every one person here, there are fifty more that are not able to attend. He said the process is skewed against local citizens and shared his many concerns.

Committeeman DelCore responded that although we appreciate your passion, the members of the Board also live here. Our professionals are paid by the Township to ensure they are doing right by the Township and residents, and to ensure the application process is a fair one. You make it sound as if we are slanted against the residents, which is insulting.

- Mr. Tarantino commented further.

Secretary Hesthag reiterated that the Board has its professionals that are paid and trained to look at all documents submitted on the Township's and the public's behalf.

- Mr. Tarantino said perhaps we have professionals looking at these things, but our interests are not being represented.

Craig Berlin – 1 Allshouse Street

- Mr. Berlin asked the status of the site visit for 303 Amwell Road.

Mr. Maski said a site-walk had not been scheduled to his knowledge. The applicant made a promise to conduct a site-walk, so that should be done well in advance of January 12.

Mr. Berlin said we are looking at documents and having meetings, but do not see anything progressing. He asked who would be filing a complaint to the NJDEP if in fact environmental issues are found. He said we provided photos, so it is not speculation.

Mr. Bernstein said the Board will not go forward with an application just because it is their night for a hearing if they are not ready to present or produce everything the Board, the objectors, and the public want to hear.

Susan Gulliford – Hunt Club Road

- Ms. Gulliford asked if the Township can take any action for an applicant that keeps making requests for adjournment.

Mr. Bernstein said an applicant has a right to ask for an extension of the hearing. It is ultimately the objective of the Board to hear an application to approve or reject it, rather than go through a technical issue which may simply end up in Superior

PLANNING BOARD MEETING MINUTES
October 06, 2022

Court, and have the application come back to the Board. The Board can reject a time of decision but has to have a valid reason.

Committeeman DelCore said we cannot be capricious in our decisions; we have to allow a reasonable time frame, or incur legal fees only to have it back before the Board.

Mr. Bernstein said delays are often Board generated because the Board or the Board's professionals have not been provided with information they believe they need to make a decision. For tonight, the applicant is attempting to address a concern raised by the Board and its professionals. Therefore, there is a rationale to granting the extension.

Mr. Bernstein said the Board tries to deal with each applicant according to the same general rules, irrespective of the proposal.

- Ms. Gulliford asked, if a property came up with other ordinance violations, would Mr. Kois be coming in to report to the Board.

Mr. Bernstein said if there is reason for Mr. Kois to advise the Board of situations he has found relative to pending applications before the Board, I suspect the answer would be yes. I do not believe it is the intension of the Planning Board to have Mr. Kois give reports on applications on the night in questions. The material will be on CivicClerk prior.

Niyatik Shah – 3 Deer Run

- Ms. Shah said there is a general feeling of fear and despair over the development proposals. She said we do not know how these applications will turn out. We should look to have family friendly businesses in these locations adjacent to farms for all to enjoy and spend time at. Ms. Shah gave examples of businesses coming to other townships.

Committeeman DelCore said those are not municipal projects, those are development projects, just as we are talking about here. If the property owner decided they wanted to do something like that, we could encourage it, but there would still be people who come out against it. Ultimately we do not control what the developer does with that property. We can only judge what the applicant is putting before us.

- Ms. Shah asked if the zoning can be more specified.

Mr. Bernstein said the zoning in place at the time an application is deemed complete, courtesy of the Legislature at the behest of the development community, to change the rule from time of decision to time of application. Therefore the zoning in place stands unless an applicant withdraws an application. The possibilities depend in large measure on what the applicant wants to do with the property and the zoning in place.

- Ms. Shah asked, if one or more of these applications do not go through, will there be an opportunity to further specify the zoning.

Mr. Bernstein said if the Board makes a decision that is "adverse" to the application, I doubt an applicant would simply say they have had enough, so let's rezone the property. The more likely opportunity will be a visit to Superior Court.

Acting Chairman Julian called for a motion to close public.

Secretary Hesthag made a motion to close public, seconded by Mr. Skobo. All were in favor.

CONSIDERATION OF ORDINANCES

None

Mr. Maski noted the next meeting will be October 13.

ADJOURNMENT

A motion to adjourn was made and seconded. All were in favor; motion carries.

The meeting adjourned at 8:13pm.

Submitted by:
Debora Padgett, Planning Board Clerk