Township of Hillsborough – BOARD OF ADJUSTMENT
APPROVED Special Meeting Minutes

May 31, 2023
7:00 pm

Chairman Herbert called the May 31, 2023, Board of Adjustment Special meeting to order and led the flag salute.

NOTICE OF MEETING

Chairman Herbert announced the 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 2023 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 https://hillsboroughnj.civicclerk.com/ . Complete applications files are available in the Planning and Zoning Department for inspection, in accordance with the public meeting notice.

ROLL CALL

Present - Frank Herbert, *Chairman*
Absent - John Stamler
Present - Helen Haines
Present - Jarrett Dewelde
Present - Catherin Payne
Present - Jim Wohlmacher, *Vice Chairman*
Present - Frank Valcheck
Absent - Tom Ramsey *(Alt#1)*
Absent - Scott Scherer *(Alt#2)*

Also in attendance: David Kois PP, AICP, *Planning Director / Deputy Zoning Officer*; Marcella McLaughlin, *Zoning Officer/Board Secretary*; Mark Anderson Esq., *Board Attorney (Woolson Anderson Peach, P.C.)*; Mark Mayhew, PE, CME *Board Engineer (Pennoni Associates)*; Christina Restuccia, CCR, *Covering Board Court Reporter.*

CONSIDERATION OF MEETING MINUTES

- March 15, 2023, meeting
  - Ms. Payne motions to approve the minutes as written, seconded by Mr. Valcheck. All were in favor, none opposed, motion carries.

- May 3, 2023, meeting
  - Ms. Payne motions to approve the minutes as written, seconded by Mr. Dewelde. All were in favor, none opposed, motion carries.

CONSIDERATION OF RESOLUTIONS

- None

BOARD OF ADJUSTMENT BUSINESS

- None

BUSINESS FROM THE FLOOR *(Open to public comment for matters not on the agenda)*

- None

PUBLIC HEARING - APPLICATIONS

- **Pilgrim River dba The Avalon at Hillsborough** - BA-22-12 (TOD 6/30/23) - Block 199, Lot 44.01 (1 Bayara Court), Lot 45 (381 Amwell Road), Lot 46 (385 Amwell Road), and Lot 47.01 (393 Amwell Road). Applicant seeking minor subdivision approval; preliminary and final major site plan approval; 'd use variance; 'c' bulk variances, waivers; and submission waivers, to demolish three existing dwellings on Lots 44.01, 45, and 46 to consolidate and subdivide approximately 17.5 acres from Lots 44.01, 45, 46, and 47.01 into three lots: Proposed Reconfigured Lot 47.01 to contain the existing assisted living buildings and associated parking and driveways; to construct two new 6,228 SF on-staff housing apartment buildings with associated parking and site improvement on Proposed Lot 47.02; and to contain the existing stormwater management basin on Proposed Lot 47.03, on Property in the GA, Gateway 'A' Zoning District. ***Adjourned from the May 3, 2023, Agenda with re-notice***.

  Participants*: Michael P. O'Grodnick, Esq. – Applicant's Attorney; Don Pelligrino - Applicant; Michael Ford – Applicant's Civil Engineer; Douglas Coleman – Applicant's Architect; Jay Troutman – Traffic Engineer; Frank Banish – Applicant's Planner.*

1) **Michael O'Grodnick**, attorney to the applicant, introduces himself and gives a brief summary of the application and introduces their witnesses.
2) Ms. Haines asks for clarification on what will be on lot 47.02.
3) Mr. O'Grodnick explains lot 47.01 is the assisted living building, parking, and driveway. Lot 47.02 are the two 6,228 sq. ft. apartment buildings and parking for the employees. Lot 47.03 is the existing wet stormwater detention basin and a future independent living facility.
4) **Don Pelligrino**, applicant, is sworn in.
5) Mr. Anderson asks for clarification on the witness's qualification.
6) Mr. O'Grodnick states he is being proposed as a fact witness on behalf of the applicant.
7) Mr. O'Grodnick asks the witness to state his position with the corporation.
8) Mr. Pelligrino states he is the CEO and one of the owners of Bridgeway Healthcare and gives a brief explanation of the corporation and the intent of their application.
9) Vice Chairman Wohlmacher asks how many people are employed at the Hillsborough facility.
10) Mr. Pelligrino states approximately 250 on a full-time capacity and explains it is a seven-days-a-week operation with three shifts with a broad range of people including full-time and per diem.
11) Vice Chairman Wohlmacher asked what percentage of the staff would be living on-site.
12) Mr. Pelligrino states with 16 two-bedroom apartments it could be 10% and explains they currently utilize "agency people" but the plan is to shift to strictly full-time people.
13) Ms. Payne asks for clarification of what "agency people" means and how many nurses they have lost from Hillsborough since 2020.
14) Mr. Pelligrino states agency nurses can include visiting nurses for a specific shift, a nurse's aide, a certified LPN and estimates they lost around 50% but some were approaching retirement age.
15) There is a discussion about how rental units would be handled: cost of rent, is COHA an option, employees only, co-habitants, would children be permitted etc.

16) Chairman Herbert states he likes the potential but would like to see a Community Impact Statement.
17) Mr. O'Grodnick states they do have planning testimony, but it may not be to the depth they are hoping for and states the intent is not to encourage children but to limit occupancy to employment.
18) Chairman Herbert asks about future plans for when there is no longer a shortage of employees.
19) Mr. Pelligrino speculates if a time arises when employee living space is no longer needed, he foresees leaning towards using the apartments for senior living and not looking to move to open housing or to sell them off.
20) Mr. O'Grodnick notes they realize any such modification would require Board approval.
21) Mr. Anderson expresses his concern regarding occupancy should the lot one day become a separately owned lot. He asks what conditions are they imposing for the occupants of the units.
22) Mr. Pelligrino states the first condition is it would be employee/staff housing for those employed on this campus.
23) There is a discussion on how this applies in parent-child situations and employee-spouse situations and how this will function between properties.
24) Chairman Herbert asks what happens if the company defaults on a loan and it turns over to the mortgage company.
25) Mr. O'Grodnick states it would then be subject to the conditions on the loan.
26) Ms. Haines expresses concern about the fact lot 47.01 lists its owner as a parent company LLC which seems to be owned by multiple people.
27) Mr. Pelligrino states it was part of their estate planning and explains how different LLCs were necessary during the purchasing process for the families.
28) Mr. Anderson suggests to Mr. O'Grodnick that the Board needs a specific description of the conditions relative to ownership and cross-ownership.
29) Mr. O'Grodnick asks if he is concerned the deed restriction would be unenforceable.
30) Mr. Anderson states he would want to see what they propose before making any judgement.
31) Ms. Haines points out many of the ownerships involve trusts which can further complicate matters.
32) Ms. Payne asks for clarification as to what will happen to the current houses on Amwell Road.
33) Mr. Pelligrino explains upon completion of Phase One they will be removed, and the current residents would relocate into the first phase.
34) Ms. Payne asks if they would allow two adults per bedroom to have up to 4 adults per unit.
35) Mr. Pelligrino states yes.
36) There is a discussion about the possible total number of employees in a building and if this is significant enough and about the staffing shortage.
37) Mr. Anderson asks if their essential purpose is to provide subsidized housing.
38) Mr. Pelligrino states yes.
39) Mr. Anderson asks how that as a practical matter is different than paying their people more.
40) Mr. Pelligrino states it is a big difference and explains how NJ, one of the lowest paid Medicaid providers, did not have a cost reporting system to determine how they reimburse nursing homes and the like. He explains the impact this has.

41) Mr. Anderson states he does not see how that is a Land Use issue. He asks how this would be different than subsidizing their housing in housing that is not owned by Mr. Pelligrino; why not subsidize the housing across the street.
42) Mr. Pelligrino explains the rates are much higher; creating their own housing would be less money and they believe they will have longer term tenants.
43) Chairman Herbert request they draft a Community Impact Statement.
44) Mr. O'Grodnick states they can endeavor to do the calculations requested or they put deed restrictions on the property to limit the ownership of the newer lot to common ownership with the other lots and limit the number of school-aged children.
45) Mr. Anderson asks if they are proposing any income restrictions.
46) Mr. O'Grodnick states they are not.
47) There is a discussion regarding affordable housing.
48) Chairman Herbert opens the meeting up to questions from the public.
49) There are none.
50) **Michael Ford**, Civil Engineer to the applicant, is sworn in.
51) Mr. Ford reviews the Proposed Site Exhibit dated September 8, 2022, and revised January 5, 2023.
52) Mr. Ford reviews outside agency approvals, parking standards and recommendations, relief requirements .
53) Ms. Payne asks where the dumpsters are located.
54) Mr. Ford describes their location.
55) Chairman Herbert asks how he would approach the situation of the land-locked piece of property from an engineering perspective.
56) Mr. Ford explains it is not land-locked in the sense it does not have access.
57) There is a discussion about the land-locked piece of property.
58) Ms. Payne asks if it is possible to have two picnic tables alongside the property.
59) Mr. Ford states two could fit, yes.
60) Mr. Mayhew states it is his office's opinion that there are not any issues which cannot be resolved.
61) No additional comments from the Zoning Officer.
62) Mr. Anderson asks if there is any engineering reason why the proposed lot for 47.02 should not have frontage on Hwy 206 Bypass.
63) Mr. Ford states it is all environmentally restrictive areas in a Conservation Easement.
64) Mr. Anderson asks Mr. Ford to acknowledge the plans to show the dumpster and generator as not on the proposed lot 47.02 and to explain why this is desirable.
65) Mr. Ford acknowledges, and it explains how this will locate the generators closer to others.
66) Ms. McLaughlin asks Mr. Ford to explain why they chose to place the dumpsters in the other lot.
67) Chairman Herbert opens the meeting to questions from the public.
68) There are none.
69) Chairman Herbert calls for a brief recess.
70) **Doug Coleman**, architect to the applicant, is sworn in.
71) Mr. Coleman states his professional experience, licenses, and education. The Board accepts him as a witness.
72) Mr. Coleman reviews the floor plan.
73) Mr. Coleman explains the location of the dumpster is, so the noise does not disturb the residents.

74) Mr. Coleman states both buildings total 12,456 sq. ft. and the proposal is to build the first and see if there is a need to build the second.
75) Mr. Coleman explains they have been working with this client for this area to be a campus designed for "aging in place" so residents have the ability to go from living in "independent seniors" areas to assisted living areas as their needs arise.
76) Chairman Herbert asks if residents have to pay HOA fees.
77) Mr. Coleman states no, there are different fees for each building which are added into the cost. He states they were told residents were to be employees on the campus.
78) Chairman Herbert asks why they chose a two-bedroom design versus three-bedroom or even a dormitory design. He expresses his concern about children.
79) Mr. Coleman explains they reviewed the current situation of the houses on Amwell Road and spoke with residents. They were not interested in a dormitory-style set-up with shared kitchen, bath, and laundry facilities. Mr. Coleman states it is also not conducive to the 24-hour revolving shifts, and this will give the residents a little more privacy, which is more desirable.
80) There is a discussion about the legality of size restrictions to limit children.
81) Mr. O'Grodnick states he can put together a Community Impact Statement to look at the potential child-impacts to the community. He can also draft deed restrictions for things such as Common Ownership language and Occupancy Restrictions related to employment and include discussions regarding age restrictions.
82) Mr. Anderson asks if the faux Mansard Roof is hiding all the mechanicals so none are on the ground.
83) Mr. Coleman states that is correct and explains where heating/cooling units are in each unit.
84) Mr. Anderson asks if there is provision for an elevator.
85) Mr. Coleman states no.
86) Mr. Anderson asks if it is possible to put one in though not necessarily immediately.
87) Mr. Coleman states it is always possible though not required.
88) Mr. Anderson suggests that one of the restrictions could be accessibility.
89) Mr. Coleman points out where one could be added if needed.
90) Ms. McLaughlin asks if there will be ADA units on the ground floor.
91) Mr. Coleman states as per the requirement they have specific units that are adaptable for ADA needs and explains what adaptations would be made.
92) There are no further questions for Mr. Coleman
93) **Jay Troutman**, Traffic Engineer for the applicant, is sworn in.
94) Mr. Troutman states his education, professional experience, and licenses.
95) Mr. Troutman explains how this site is low-traffic use.
96) Chairman Herbert calls for questions from the Board. There are none.
97) Mr. Anderson asks if the building were not used for their proposed purpose right away and had to be used for Age-Restricted Housing, does he see any changes that would need to be made.
98) Mr. Troutman states that too is a low-impacted usage.
99) Mr. Anderson asks if it is fair to say Age-Restricted Housing would have a low impact on the traffic on Amwell Road.
100) Mr. Troutman states that is fair.
101) Vice Chair Wohlmacher asks where the school bus traffic would be if there were children.
102) Mr. Troutman states that it is typically worked out with the Board of Education and speculates it would be along Amwell Road like any typical bus stop.

103) There are no further questions for any of the current witnesses.
104) There is a discussion regarding Time of Decision and next meeting date.
105) It is agreed the next meeting for this application will be July 19, 2023, carried without notice.
106) Mr. Anderson asks if the architectural drawings are part of what has been filed.
107) Mr. O'Grodnick states yes.

ADJOURNMENT

A motion to adjourn was made by Ms. Payne, seconded by Vice Chairman Wohlmacher. Motion carries unanimously.

9:37 pm meeting was adjourned.

Submitted by Robyn Bittle-Abramo
Recording Secretary