Township of Hillsborough – PLANNING BOARD
Approved Public Meeting Minutes

July 13, 2023

Chairman Carl Suraci called the Planning Board Regular Public Meeting of July 13, 2023 to order at 7:07 PM. The meeting was held in the Courtroom of The Peter J. Biondi Building. All stood for the flag salute.

NOTICE OF MEETING
Chairman Suraci 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 web site 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

Absent -	Robert Wagner, Jr	Present -	Patricia Smith *(Alt #2)*
Present -	**Robert Peason, *Secretary***	*Absent* -	Committeeman John Ciccarelli
Absent -	Frank DelCore	Present -	Mayor Shawn Lipani
Absent -	Ron Skobo	Present -	**Neil Julian, *Vice Chairman***
Present -	Bruce Radowitz *(Alt #1)*	Present -	**Carl Suraci, *Chairman***

Also in attendance: David Kois, PP, AICP, *Township Planning Director*; Eric Bernstein, Esq., *Board Attorney (Eric M. Bernstein & Associates)*; Mark Mayhew, PE, CME, *Board Engineer (Pennoni Associates)*; Michael Lombardozzi, CSR, CCR, *Board Court Reporter.; Dylan Tollefson, Township Videographer (Fuerza Strategy Group)*

CONSIDERATION OF MEETING MINUTES
- None

CONSIDERATION OF RESOLUTIONS
- None

PLANNING BOARD BUSINESS
- None

CONSIDERATION OF ORDINANCES
- None

BUSINESS FROM THE FLOOR *(public comment for matters not on the agenda)*
Chairman Suraci opens comments from the public; asks the public to state their name and address and reminds them there is a five-minute limit per person. He also reminds, comments regarding warehouses are not permitted during this period due to the number of applications currently before the Board. Comments and questions about warehouse applications will be permitted during their hearing so as to have them on the record.

Maria Janucik – 720 East Frech Ave., Manville (residence) / 2155 Camplain Road, Hillsborough (property owner)
- Ms. Janucik asks if there was a change to the status of the Harvard Way application.

Mr. Bernstein states the Harvard Way application is currently in the courts; he and an attorney for the insurance company are representing the Township in the matter.

- Ms. Janucik asks if Mr. Lombardozzi records and transcribes the meetings and if so what is his AOC number.

Mr. Bernstein states this does not fall under the jurisdiction of the Administrative Office of the Courts (AOC). He explains while these proceedings are considered a quasi-judicial board it is not under the auspices of the NJ Court System.

- Ms. Janucik asks why Mr. Lombardozzi's signature is not on the transcripts.

Mr. Bernstein states his signature is not required to be on them; it is an official transcript of the Board.

- Ms. Janucik asks if notice has been sent to current warehouse owners in corresponding zones that the Township Committee recently passed an ordinance forbidding warehouses as a permitted use in the I-1, I-2 & I-3 Light Industrial Zone and the GI Zone since they have one year to apply for a certificate of non-conformity.

Mr. Kois states they sent a 'frequently asked questions' document to stakeholders about how to apply for a certificate of non-conformity. He is not aware of any requirement to send notifications and defer to legal counsel. He states public notice was given when the ordinance was adopted.

- Ms. Janucik asks for clarification of who is to receive notice, if it includes warehouse property owners.

Mr. Kois states any properties within the zone and properties within 200 feet would have to receive personal notice for the adoption of the ordinance.

Mayor Lipani states everyone who was supposed to receive notice per requirements of the meeting were sent notification.

Mr. Bernstein states the issue of notice and procedure relating to the adoption of a Township Ordinance falls within the purview of the Township Committee and questions pertaining to this issue can be brought before them at the next meeting.

There are no further public comments.

APPLICATIONS – PUBLIC HEARING

- **303 Amwell LLC** (JMJ4 ABEEL LLC) - **File 21-PB-17-MSPV** – (TOD: 09-28-23 w/Ext.) - Block 198, Lot 2.03 (*formerly Lot 2.B*) – 303 Amwell Road (*f/k/a as 301 Amwell Road*). Applicant seeking preliminary and final major site plan approval; 'c' bulk variance; and waivers, to construct an 85,348 square foot industrial building with associated stormwater management, parking, lighting and improvements, on Property in the CDZ, Corporate Development Zone. (EC Review: 08-15-22) *Revised document/plans/reports submitted 12-22-22. New items submitted 03-31-23.* (*PB Agendas: 09-08-22; 01-12-23; 04-06-23 – canceled, rescheduled to 04-13-*

23; 04-13-23). **Application continued from April 13, 2023 without further notice. APPLICANT REQUESTING TO BE ADJOURNED TO A DATE TO BE DETERMINED BY THE BOARD.**

1. At 7:18 PM, Matt Flynn *of Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher, P.A.,* attorney for the applicant, introduces himself.
2. Craig Berlin, objector, introduces himself.
3. Mr. Flynn states the applicant is seeking to carry the issue to October so as to have more time to get plans in order.
4. There is a discussion about Time of Decision and possible dates to carry to.
5. Mayor Lipani motions to continue 21-PB-17-MSPV 303 Amwell LLC to November 22, 2023 without further notice and extension of Time Of Decision to December, 31, 2023, seconded by Mr. Peason.
6. Mr. Peason reminds the applicant and their council of the 10-day prior rule regarding submitting any new information.

Roll Call:

Yes -	Secretary Peason	Yes -	Mayor Lipani
Yes -	Mr. Radowitz *(Alt #1)*	Yes -	Vice Chairman Julian
Yes -	Ms. Smith *(Alt #2)*	Yes -	Chairman Suraci

Motion carries at 7:25 PM.

- **Hillsborough 206 Holdings, LLC – File 18-PB-07-MSPV** (2019 Amended Site Plan) (2023) - Block 202, Lot 4 – Route 206. Applicant to update the Board on the status of the phasing for the mixed-use project, as per Condition 'C' of the Resolution of Approval for amended preliminary and final major site plan approval; 'c' bulk variances; and waivers, dated February 14, 2020, with conditions; and subsequent extensions as per Resolution dated July 01, 2021; and Resolution dated July 07, 2022, for Property located in the MUID-1, Mixed-Use Inclusionary District.

1. Richard Hoff *of Bisgaier Hoff, LLC*, attorney for the applicant, introduces himself. He gives a summary of the application which includes stating the site is now called 'The Hillmont'.
2. Mr. Hoff states they are here tonight to ask to stop coming back; the building permits will be issued, and applicants will proceed within 30 days of receiving the permits. He states the plan to build the first building, move to the second and the third building is anticipated being a drive-thru which they would prefer not to do on spec and will look for a specific user for.
3. Mr. Kois states for clarification Building A received its zoning permit about a year ago and permit to begin construction on May 15, 2023. Building B's zoning permit was received about a week ago and then denied, he assumes they will be receiving a modified application soon. They have not received permits for Building C and six of the fourteen residential buildings have received TOCs, no COs have been issued for any of the buildings except for the clubhouse. He reminds the Board of the Developers Agreement; the non-residential component of the agreement was for three buildings with a total area of 12,500 square feet of retail space ratables required to be constructed.

4. Mr. Hoff states they do not take issue with any of the details stated by Mr. Kois, it accurately reflects where they stand, and they remain committed to building out the retail.
5. Mr. Bernstein states the concern is if Buildings A, B and/or C will get the desired result or will they end up empty.
6. Jack Tycher of Canoe Brook is sworn in.
7. Mr. Bernstein states for the record that the two buildings are approximately 9,000 square feet. He asks the Board how they would like to proceed. He asks Mr. Tycher if the buildings are rented out.
8. Mr. Tycher states they have leased approximately 65 of the 175 apartments and are in negotiations with one lease for approximately 2,000 feet of the larger building.
9. Mayor Lipani asks if all 13 buildings are complete and ready for occupancy.
10. Mr. Tycher states they anticipate TCOs by September or October for all 14 buildings. He believes currently at least six of the residential buildings have TCOs, an estimated 10 units occupied with more becoming occupied each day. And of the 175 units 42 of them will be affordable housing units.
11. Mayor Lipani asks if the affordable housing units are being fulfilled as quickly as the other units.
12. Mr. Tycher states it is a slower process but yes the administrator is going through the process of finding applications.
13. Mr. Kois explains there is a phasing schedule that is required and the TCOs accurately reflect what they are supposed to be doing. He states based on the information the Zoning office currently has, they are in compliance with the phasing schedule.
14. Mayor Lipani states he understands the struggle post-Covid to fill retail buildings but expresses concern regarding buildings never being filled.
15. Mr. Tycher states they have no interest in buildings being left unrented either.
16. Mayor Lipani asks if their plan is to build two of the buildings on spec and reserve the right to build the third upon finding a tenant.
17. Mr. Tycher states this is correct.
18. Mayor Lipani states he appreciates their diligence and, in his opinion, if they are going to build the two it would be satisfactory.
19. Board members discuss the viability of the property.
20. Mr. Bernstein reminds the Board the applicant has been very accommodating and done everything the Board has asked of them.
21. Chairman Suraci raises the idea of perhaps changing the third building into something else.
22. Mr. Tycher expresses concern that there is not enough space in building three area to do something different.
23. Mayor Lipani asks what kind of greenspace they are offering; if there is a clubhouse and/or playground for tenants.
24. Mr. Tycher states there is no playground but there are significant amenities, greenspace in-between all the buildings and a dog run.
25. There is a discussion about the possibility of building a pocket park, possibly temporarily.
26. Mayor Lipani proposes allowing the applicant to finish building 14, continue with the building of the two retail spaces with the understanding that if there is not a tenant for the third space it will be finished off as a green space with the right to add the lot if able to sell it in the future.
27. Mr. Bernstein adds to provide an update to the Board, in writing, by the end of November 2023.

28. Mr. Peason motions to adopt the proposal as stated by Mayor Lipani with Mr. Bernstein's addition, seconded by Vice Chairman Julian.
29. Mr. Radowitz asks Mr. Bernstein if he is able to vote on this matter as he was not a member of the Board when this application was heard.
30. Mr. Bernstein suggests he as well as Ms. Smith abstained.
31. There is a motion and second to open to the public. All were in favor, none opposed. Motion carries.
32. Maria Janucik – 720 East Frech Ave., Manville (residence) / 2155 Camplain Road, Hillsborough (property owner)
    Ms. Janucik asks if they are allowing changes in the original application.
33. Chairman Suraci states they are not changes but rather adjustment to phasing.
34. Ms. Janucik asks if a new plan should be put in writing so it is present on the record.
35. Mr. Bernstein states it will be adopted by resolution at a subsequent meeting.
36. Ms. Janucik asks if the applicant needs to provide anything new with regard to the phasing plan for the third building.
37. Mr. Bernstein reminds the motion includes providing the Board with an update by the end of November as to the status of the commercial buildings and greenspace.
38. Ms. Janucik asks if the applicant was originally an intervener.
39. Mr. Bernstein states they talk them out of becoming an intervener.
40. Ms. Janucik asks for clarification as to who the applicant is.
41. Mr. Bernstein states the applicant is still Hillsborough 206 Holdings LLC and the development is now called The Hillmont.
42. Ms. Janucik asks for an explanation of the phasing schedule.
43. Mr. Bernstein explains it is set forth in every development agreement they have with copies under the Uniform Housing Affordability Control of which he gives details.
44. Ms. Janucik asks for details regarding the status of the buildings to be repeated.
45. Mr. Tycher and Mr. Bernstein reviewed the previously discussed details of the buildings.
46. Chairman Suraci asks Ms. Janucik if she has questions pertaining to the resolution.
47. Ms. Janucik asks why the permit for building two was denied.
48. Mr. Bernstein explains the original permit for Building B was sent back for additional information. He states further questions on this matter should be directed to the Building or Engineering Department.
49. Chairman Suraci states it is not relevant for why the applicant is here tonight.

Roll Call:

Yes -	Mr. Peason	Yes -	Mayor Lipani
abstain -	Mr. Radowitz *(Alt #1)*	Yes -	Vice Chairman Julian
abstain -	Ms. Smith *(Alt #2)*	Yes -	Chairman Suraci

Motion carries. Hearing ends at 8:00 PM.

- **Homestead 279 LLC – File 22-PB-05-(S)/MSPV** (TOD: 07-31-23 w/Ext.) - Block 200.02, Lot 12 (Formerly Block 200.B, Lot 28) – 279 Homestead Road. Applicant seeking preliminary and final major site plan approval; 'c' bulk variances; and waivers, to construct a second 132,750 SF warehouse building on the subject lot, with internal office space, associated parking, loading spaces, lighting, stormwater, and improvements, on Property in the LI, Light Industrial Zoning District. *Further Revised Plans submitted 02-24-23 removes the request for a minor subdivision.* (EC Review: 07-25-22 / Revised packet routed 09-19-22 / Further revised plans, documents, and reports received 06-28-23 through 06-30-23. (*PB agendas: 09-01-22; 11-03-22 – adjourned without further notice; 01-12-23 – NO testimony – for scheduling only; 02-09-23; 03-09-23; 05-11-23 – adjourned; 06-08-23 - adjourned*). ***Application adjourned from June 08, 2023 without further notice.***

1. The hearing began at 8:00 PM as Matt Flynn of Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher, P.A., attorney for the applicant, introduced himself.
2. Joseph Tauriello of The Law Offices of Joseph C. Tauriello, Esq., P.C., Objector, introduces himself.
3. Mr. Bernstein asks Mr. Flynn to give a brief update of the revised application and suggests there will need to be discussions regarding issues involving the application and related items.
4. Mr. Flynn states this is a preliminary and final site plan approval for the construction of a revised application for a 113,580 square foot warehouse facility. He gives a summary of the status of the application. He states the changes include but are not limited to the elimination of the subdivision, revised and notarized applicant consent form, 20,000 square foot reduction in size of the building, loading docks located away from residential lots 14 and 15, and redesign of the storm water management system is in progress.
5. Mr. Bernstein and Mr. Flynn clarify they are discussing section 188-74.
6. Mr. Bernstein tells the Board there is a provision which allows for more than one principal building subject to site plan approval.
7. Mr. Bernstein states there are multiple issues including but not limited to the standing issue, not all revised documents where submitted by the meeting deadline, the condominium documentation does not address the question raised at the March 8, 2023, meeting, documents are incomplete, and there is a question as to if it is actually a condominium or actually a subdivision. He states the property owner giving permission to allow the applicant to present the application does not give it standing but rather creates the question who is the owner of the property.
8. Mr. Tauriello states he believes the incomplete documents submitted suggest this to be an illegal subdivision. He explains the documentation does not state who the owner is on the second portion of the property. He states the easement agreement confirms this is not a condominium association because they are giving individual property rights when there should be common areas.
9. Mr. Flynn states he cannot find anything under NJ Law that prevents a two unit condominium agreement between two condominium unit owners operating in a commercial capacity. He states they intend to submit HOA documents to Board professionals for review after the approval. He states the applicant does have standing because they are a contract purchaser with authorization of the property owner for a condominium.
10. Mr. Tauriello refers the Board to NJSA section 46:8b-3 subparagraph i and reads the definition of condominium property into the record.
11. Mr. Flynn disagrees with the characterization.
12. Chairman Suraci asks if they will be cleaning up the documents to create a single ownership.
13. Mr. Flynn states he believes that is the intention of his client.
14. Mr. Bernstein states the focus is the documents before the Board not what they can be.
15. Chairman Suraci asks why the documents were drafted in a way to appear it did not give equal ownership.

16. Mr. Flynn states he does not know as he did not draft the documents but knows they submitted the draft to show where they are in the process.
17. Mr. Tauriello expresses their frustration with the constant changes. He discusses the case law he previously provided. He comments on Mr. O'Grodnick's letter stating it was incorrect in claiming changes were made upon his client's request. Mr. Tauriello states his client has sought to have a conversation with the applicant for the past year but has not received a response.
18. Mr. Tauriello reviews the Board's engineer's report, specifically item 17 on page 12. He states that the issue was raised a year ago and it has been ignored.
19. Mr. Flynn reviews the case law Mr. Tauriello cited.
20. Mr. Bernstein states there are two options; one is the applicant goes forward with the application as proposed tonight with the understanding that the only item which can be discussed before the Board is Mr. Tyner's submission on the 26th, anything else is out of time.
21. The second option is to give both parties an opportunity to submit to him additional arguments. He acknowledges Mr. Flynn is at a disadvantage since Mr. O'Grodnick was at the previous meeting.
22. Mr. Bernstein suggests Mr. Flynn and Mr. Tauriello take a few minutes to discuss the offer with their clients.
23. Chairman Suraci asks if any of the Board members should opine.
24. Mayor Lipani agrees with Mr. Bernstein's suggestion and thinks the Board should utilize the time to speak with their attorney.
25. Chairman Suraci calls a 15-minute recess.
26. 8:55 pm Chairman Suraci calls the meeting back into session.
27. Mr. Flynn states they are willing to accept Mr. Bernstein's preferred course of action to engage in briefing on the issues, 14 days would suffice.
28. Mr. Tauriello states he agrees with the accommodation.
29. Mr. Bernstein proposes all briefs are to be submitted to him by close of business on July 28, 2023; if either would like to submit a rebuttal, Mr. Bernstein must be notified by 3:00 pm on Monday, July 31, 2023 and will have to August 7, 2023 to submit them. Mr. Bernstein states his office will have a decision by close of business on August 28, 2023.
30. Mr. Flynn and Mr. Tauriello agreed.
31. Mr. Bernstein reviews the Time of Decision.
32. Mr. Peason motions to approve conditions as stated by Mr. Bernstein, seconded by Mr. Radowitz.

Roll Call:

Yes -	Mr. Peason	Yes -	Mayor Lipani
Yes -	Mr. Radowitz *(Alt #1)*	Yes -	Vice Chairman Julian
Yes -	Ms. Smith *(Alt #2)*	Yes -	Chairman Suraci

Motion carries. Hearing ended at 9:01 PM.

Chairman Suraci notes that there is a special meeting next week, July 20, 2023. He states there currently is nothing scheduled for the business meeting on July 27, 2023, so will entertain a motion to cancel.

Mayor Lipani motions to cancel the July 27, 2023, business meeting, seconded by Mr. Peason. All were in favor, none opposed. Motion carries.

ADJOURNMENT

A motion to adjourn was made by Mayor Lipani, seconded by Mr. Radowitz. Motion carried unanimously.

At approximately 9:03 pm the meeting is adjourned.

Submitted by Robyn Bittle-Abramo
Recording Secretary