

Town of Hillsdale
Minutes from Public Hearing and Planning Board Meeting
11.13.2023

DRAFT

Members present: Barbara Pascale, Chair; John Avenia, Mark Barbato, Brandon Lentine, Kyle McGraw, Suzanne Werner.

Others in attendance: Edward Thyberg, Jr. and Attorney Morgan Lynk, Applicant; Andy Didio from Taconic Engineering representing Matthew White and Thomas Schumacher, Joanna Virello from the Hillsdale Town Board. Michael Mohr and Shannon May, abutting neighbors to Thyberg.

PUBLIC HEARING ON THE MATTER OF EDWARD THYBERG, JR. APPLICANT

Hearing opened 7:02 No members of the public appeared. Hearing closed 7:02

Meeting called to order 7:03

Matter 1 - Continuation

Address: 108A Shun Toll Rd. SBL: 137-1-1.2

Application for: Minor Subdivision

Chair noted that the authorization for the application has been corrected to match the owner of the property, Edward Thyberg, Jr., who is listed as owner on the county's deed records.

Chair noted the planning board's concern about any future access from the public way to a potential building envelope at the rear/top of the lot would apparently require the construction of a driveway which would be nonconforming according to town code section 245-51 and potentially also 245-44 (steep slopes.)

Applicant responded that he is planning on selling the lot to the abutting neighbor, who could potentially access the lot from his existing parcel without requiring a nonconforming driveway. Further, the applicant has decided to not proceed with a perc test for BOH approval, and is not seeking approval of this subdivision as a "buildable lot."

Chair reviewed language from the 2012 plat, which stated, in part:

"No construction shall be permissible on these lots...until it is determined that the respective lot can be built on under the requirements of the town's ROD..." and proposed that this language be added to the final plat prior to filing. In this way, the sale of the subdivided lot can proceed

but the burden of demonstrating compliance with the strict requirements of the pertinent code sections is not obviated, but in fact shifted to the buyer/potential future developer. Turning to the issue of SEQR review, Chair noted that during the 2012 subdivision review, a substantial environmental review was undertaken by the planning board. Hillsdale's CAC has not reviewed this new parcel for environmental issues, although neither the NYSDEC Environmental Resource Mapper submitted by the applicant nor the Part 1 EAF revealed any substantial concerns.

The board proceeded with SEQR review, noting that it would be appropriate to conduct additional review at the time of any future application for building activity.

Motion to issue Negative Declaration was made by Mr. Avenia, seconded by Mr. McGraw. Vote: Ayes 5, Opposed 0, Abstained 1 Ms. Werner abstained as she was absent from the September meeting.

Decision: Negative Declaration Issued under SEQR

Discussion about how to word the approval in front of the board. Motion made by Mr. Lentine, seconded by Mr. Avenia, to approve the subdivision subject to the inclusion of language substantially in conformity with what had been required in the 2012 action (Chair will review with attorney Lynk prior to inclusion on the plat)

Vote: Ayes 5, Opposed 0, Abstain 1

Decision: Subdivision Conditionally Approved

Matter 2 - continuation

342 Mitchell Street SBL:

Application for : Site Plan Review within ROD

A site visit was undertaken by several board members, to establish whether the project would be visible from a public way.

Motion to exempt the project from further review under Section 245-31 Mr. Lentine seconded Ms. Warner, 6 Ayes, 0 Nays

Decision: Project was exempted from further review under ROD Section 245-31

Mr. Didio then stated to the board that at its regular November meeting, at which the Chair was in attendance, the Hillsdale ZBA granted an area variance to the applicant for Section 245-44. Several members of the board were concerned that the language of the draft ZBA meeting minutes did not explicitly reflect what specific section of the code was being exempted, and

therefore should be amended to do so. It was noted that no board approvals are needed for work in slopes in excess of 15%, that a building permit can be issued provided that the mitigating factors are in place for site erosion and drainage. *This seems to the board to be a section of the town code that might need revision in that it can allow "exempted" projects within the ROD to be approved without review.*

*It was noted also that the requirements of 245-44A **require** "proper engineering review," the intent of which is not clear in the code.*

Meeting adjourned without motion

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