

# Borough of Tenafly

MAYOR AND COUNCIL

SPECIAL COMMITTEE OF THE WHOLE MEETING

MINUTES

TUESDAY, MAY 17, 2011

The meeting was called to order at 7:34 P.M. with the reading of the Open Public Meetings Act statement by Mayor Rustin.

Present: Mayor Peter S. Rustin

Council members: Anthony Barzelatto (arrived at 7:58pm),  
Barry Honig (arrived at 7:39pm), Martha Kerge,  
Nadia LaMastra, Michael Lattif, Jon Warms

Borough Administrator: Jewel Thompson-Chin

Borough Attorney: William R. McClure, Esq.

Absent: None.

Mayor Rustin explained the purpose of this special meeting in that the subject matter is extremely important and was separated from normal business. The proposed ordinance revisions were recommended by the Planning Board based on work experienced by the Borough Engineer and Construction Official. The issue of the scheduled uses derived from a recommendation from C. Lattif.

Mayor Rustin read the following statement:

"Public Comments: A total of 15 minutes has been allocated for this purpose. Citizens are welcome to address the Mayor and Council on any governmental item of concern to them, whether or not it is scheduled on the agenda below. Citizens must give their names and addresses when recognized to speak. Large groups are urged to select someone to represent them. The public is advised that these meetings are recorded and are subject to the Open Public Records Act."

Paul Keyes – 44 Cortland Place – explained how in the BID meetings, a big part of the discussions involve how to make it easier for businesses to come to town. He mentioned that he attended a meeting of the Board of Adjustment, described the influence the Board has as a cog in the economic engine and stated that the culture of the Board of Adjustment must be changed in order to attract more businesses to town.

## **TO BE CONSIDERED**

- A. Land Development Ordinance Review – with Construction Official Robert Byrnes and Borough Engineer Dave Hals.
  - i. Proposed Ordinance Revisions from January

C. Honig inquired what the purpose of the revisions was and how the proposed revisions will make things better. Mayor Rustin responded that the proposal is based on issues that have come before the Planning Board and Board of Adjustment which mainly affect the appearance of the streetscape of neighborhoods and that what is being presented is just a first draft. C. Kerge remarked that similar recommendations were presented to Council about 7 or 8 years ago, but the governing body chose not to implement them.

Mr. Hals explained that the recommendations regarding building height and below grade garages are correlated. One recommendation involves how building height is measured. The proposal is for the average grade to be measured around the entire perimeter of the house, as opposed to the current practice of measuring the four corners. The Floor-Area-Ratio, as currently defined, penalizes a homeowner as the size of the garage is included in the calculation. As houses have gotten larger, garages are being built below the first level in order to not be incorporated into the FAR calculation. As a result of this practice, this gives houses a 3-story look from the street. By using the perimeter of the house to take an average grade measurement, property owners can no longer artificially excavate a below grade garage.

C. Honig mentioned the potential for loopholes to these revisions. Mr. Hals responded that there will never be a cure-all effect, but the proposed changes are the best way of handling the appearance issues and makes the review process much easier. To discourage below grade garages, the definition of the FAR needs to be changed and the Planning Board recommended excluding the first 400 square feet of the garage area from the calculation. He explained that problems with the FAR stem from the applied definition.

C. LaMastra commented that these proposals provide quick fixes to alleviate problems that are currently being faced. Mayor Rustin advised that these suggestions come from people in the front lines, who are members of the Planning Board and the Borough's professional staff, in an effort to minimize the prevalence of homes building below grade garages. C. Kerge stated that she needed additional time to review most of the recommendations to determine if they had any impact on the property values of homes.

Mr. Hals explained the purpose of the combined side yard, which is a percentage of the lot width measured at the building setback line, is to allow for separation between properties. It creates more green space between homes on larger size lots in small zone neighborhoods. He stated that the recommendation on maximum impervious coverage increases the stormwater runoff from the land.

Mayor Rustin advised that there was a resident in the audience who arrived after the public comment portion of the meeting. She has come before the Council to speak regarding an application denied twice by the Board of Adjustment. He stated that he would like to have the resident speak as many residents are in similar situations. Council concurred.

Lisa Similonis – 230 Hickory Avenue – explained that her home was built in the 1930s on a small lot and that under the Borough's current regulations, she's 5% over because the garage is included in the FAR calculations. For the past two years, she's been before the Board of Adjustment and has been denied. She is seeking to add a bedroom and a bathroom, while maintaining the architecture

of the house and uniformity of the neighborhood. She added that while her application has been denied, large homes nearby have been building below grade garages.

Mayor Rustin inquired about the process for adopting an ordinance implementing these proposals. Mrs. Aportela-Hernandez explained the zoning ordinance procedure in that if a land development ordinance is introduced on May 24, 2011, the hearing cannot be sooner than July 12th. Notification must be forwarded to the Planning Board, the Municipal Clerks of the adjoining municipalities, and the County Planning Board.

C. Lattif expressed that he believes the proposals will be improvements, but not total solutions. If these suggestions are passed, additional amendments may need to be made by future councils. He believes that different points of view are needed. He favors proceeding with excluding the first 400 square feet of the garage area from the FAR calculation, but wishes to hold off on the other recommendations until C. Kerge has conducted her review on the potential impact on home property values.

The consensus of the majority of Council was to introduce an ordinance implementing all of the recommendations for the May 24<sup>th</sup> meeting. C. LaMastra mentioned that there is no method in place to advise the community of these changes. The Borough Administrator was directed to issue a press release to the Suburbanite and Record regarding the ordinance after it is introduced. Council will review the scheduling of an additional meeting to discuss these revisions in June, possibility on a Thursday.

- ii. Consider Amending Schedule A, Schedule of Permitted Uses, to Prohibit Nail Salons & Massage Parlors

Mr. McClure advised Council that there cannot be a blanket prohibition on nail salons, but an ordinance can specify which zones the salons are permitted. Mr. McClure explained that there is a model ordinance with regards to illegal massage parlors, which needs to be formatted to the Borough's land development regulations. Both ordinances will be presented to Council for review for the June 14<sup>th</sup> Committee of the Whole meeting, along with the BID's recommendation regarding nail salons.

#### **ADJOURNMENT**

As there was no further business to come before the Council, on a motion by C. Warms, second by C. Lattif, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:03 p.m.

Lissette Aportela-Hernandez, MPA, RMC  
Borough Clerk