

Borough of Tenafly

MAYOR AND COUNCIL

SPECIAL COMMITTEE OF THE WHOLE

MINUTES

TUESDAY, OCTOBER 23, 2012

At 7:33 p.m. Mayor Rustin read the Open Public Meetings Act Statement: "IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT, P.L. 1975, chapter 231, THE NOTICE REQUIREMENTS HAVE BEEN SATISFIED. THE MEETING DATES FOR THE YEAR ARE CONFIRMED AT THE ANNUAL MEETING, ARE POSTED ON THE PUBLIC BULLETIN BOARD IN THE LOBBY OF THE MUNICIPAL CENTER, AND PUBLISHED IN THE RECORD WITHIN THE FIRST 10 DAYS OF THE NEW YEAR. NOTICE OF THIS MEETING BY RESOLUTION #12-321 HAS BEEN SENT TO THE RECORD, THE SUBURBANITE, AND NORTHERN VALLEY PRESS AND HAS BEEN POSTED ON THE PUBLIC BULLETIN BOARD IN THE LOBBY OF THE MUNICIPAL CENTER."

Present: Mayor Peter S. Rustin

Council members: Anthony Barzelatto (arrived at 8:30 p.m.), Barry Honig, Martha Kerge, Nadia LaMastra, Jon Warms (arrived at 7:35 p.m.), Mark Zinna

Borough Administrator: Jewel Thompson-Chin
Borough Attorney: William R. McClure, Esq.

Absent: None.

Mayor Rustin read the following prepared statement:

Welcome to this special combined meeting of the Tenafly Mayor and Council and the Tenafly Planning Board.

Before we begin I would like to make the following statement to those of you have taken the time out of your busy day to join us this evening. It is very gratifying to see so many people here. The normal attendance at a Mayor and Council meeting or a Planning Board meeting is a fraction of what we have here tonight.

Unfortunately, many of you have been urged to attend tonight's meeting by some recent mailings that can be described not only as inflammatory, but inaccurate and extremely misleading. I apologize for this confusion, as many residents assumed that the flyers were official information sent out by Borough Hall. Nothing could be further from the truth. We, the members of the governing body and the Planning Board are pleased to have you here. But please understand, regardless of what you have read in those flyers, tonight's discussion is not a public hearing! It is a combined work session of the Mayor and Council and the Planning Board. It is a public meeting, but time for public comment will be limited as there is much to be discussed by these two bodies.

As you can see on the posted agenda, public comment will come later in the meeting after you have had an opportunity to hear from both the Council and the Planning Board. Public comment will be kept to no more than 30 minutes this evening. Keep in mind that no action will be taken at this meeting. The Planning Board requested this meeting in order to present several recommendations to the members of the Borough Council. These recommendations are changes in the Tenafly Zoning ordinances, which the Planning Board believes are needed to maintain the attractiveness and character of Tenafly. Many of these proposed changes have been either suggested or crafted by our town professionals. The Borough Council will decide whether or not to act on any of the recommendations presented this evening at a later date. If the Council chooses to change any current zoning ordinances, there will be public hearings on the changes being considered. At that time the public will have an unlimited opportunity to voice their feelings on the proposals before the Council.

Among these suggested changes is a proposal that would limit the construction of new two-family homes. This proposal was first sent to the Council several years ago and it was rejected after a public meeting was held. At this meeting, several residents spoke in opposition to this proposed

change. The opponents to this change consisted mainly of two groups; property owners who would have been unable to knock down their older single family homes and build two-family dwellings; and local real estate brokers who would profit from the sale of these older single family homes to developers who knock down the properties and re-build with new two-family homes. At this public meeting, numerous members from those two groups spoke in opposition to this proposal. Few if any proponents of the change were present. This surprised members of the Planning Board since the reason for this suggested change was a stream of complaints about the proliferation of new two-family homes and the manner in which they were changing the look and character of our community. As a result, the Planning Board suggested this change to the Borough Council, whose approval is needed to make this change.

Several years have passed since the Council failed to approve this measure. During those years, new two-family homes have continued to be built. One need only to drive down Tenaflly Road, Grove Street, or numerous other streets behind the High School to see the change in the streetscape. Years ago, families looking to move into Tenaflly; but unable to afford a single family home looked to two-family homes as a less expensive entry into Tenaflly. That is no longer the case; in most instances the cost of a unit in a two-family home now exceeds many available single family options. Half of a new two-family home now runs in most cases close to one million dollars if not more. At the same time, the newspapers often list numerous starter homes in Tenaflly for under \$600,000. In many cases, the only one benefiting from the construction of a new two-family home is the developer.

At this time I would like to turn the meeting over to the Chair of the Planning Board, Mary Beth Wilmit, who along with her fellow Board members will present to the Council several recommendations the Board would like the Council to consider. The following Board and Borough Professionals are also present to answer any technical questions Council members may have: Jeff Zenn, Planning Board Attorney; David Hals, Planning Board Engineer; Ed Snieckus, Consultant from Burgis Associates, Inc.; Dee Lorberbaum, Municipal Land Use Administrator; Valerie Nicolosi, Planning Board Secretary; Jewel Thompson-Chin, Borough Administrator; and William McClure, Borough Attorney.

PRESENTATION BY THE PLANNING BOARD

Mary Beth Wilmit, Planning Board Chairperson, introduced Jeff Zenn, Planning Board Attorney, to discuss the duties of the Planning Board. Mr. Zenn explained that the Planning Board is entrusted with developing the Master Plan. The governing body has responsibility to enact ordinances, whereas the Planning Board will review an ordinance once introduced to determine whether it is inconsistent with the Master Plan. The Planning Board can make recommendations, but the Council decides whether to vote to adopt an ordinance and may even adopt an ordinance that is inconsistent with the Master Plan which is permitted providing that the requirements of the law are followed and reasons are set forth.

Eugene Marcantonio, member of the Planning Board, provided background on the Master Plan and explained that its principle goal and objective is to preserve and protect the residential character and density of community. He advised that the development of multifamily homes should not have an impact on single family dwellings and commented that multifamily units increase density and traffic as well as require more public resources and increase the Borough's COAH responsibility. He explained that the ordinance limits multifamily in areas that already have many and the reason for the limitation was due to complaints received from residents about the proliferation of two-family houses. He pointed out that residents are still able to go to the Board of Adjustment for a variance should they not meet the requirements of the ordinance to build a multifamily dwelling.

MAYOR AND COUNCIL QUESTIONS AND COMMENTS

C. Honig provided statistics showing that there has been a net drop in students since 2010, there are no staffing issues at the schools, and the number of actual students is much lower than what the Bishop Study had projected. He questioned the actual increase in population that has resulted from the increase in the number of two-family homes. He expressed his belief that this ordinance is depriving residents of their property rights and pointed out that the Council has not received one letter supporting this new zoning ordinance.

C. Kerge advised that she has lived in Tenaflly a long time and Kerge Realtors has been in business since the 1950s. She expressed her belief that two-family homes have not been allowed into single family zones for quite some time and questioned how the creation of the R7.5A zone will enhance the concept of single family zoning. Mr. Marcantonio responded that this ordinance would fulfill the Master Plan by reducing multifamily houses in zones with single family predominance. Mr. Zenn added that the proposed ordinance would increase the lot size and setbacks as well as various bulk

regulations. David Hals, Planning Board Engineer, explained that under the current ordinance, there is no differentiation between the size lot upon which single and two-family homes can be built. The proposed ordinance not only designates where two families should be located, but has required that the lot size be a minimum of 10,000 square feet in order to accommodate an additional home. C. Kerge inquired why that requirement could not have applied to all zones rather than certain sections and streets. Mr. Hals responded that the Planning Board looked specifically at the areas in which two-family homes were condensed together.

C. LaMastra asked for information on how many lots are currently in the R7.5 zone and how many are over 10,000 square feet. Mr. Hals advised that there are currently 328 lots in that zone and 79 of those are 10,000 square feet or greater. He further advised that 177 properties are already two-families and there are currently 140 properties that, under the current ordinance, could convert from a single to a two-family residence. Council questioned how many properties located within the R7.5 zone would still have the ability to build a two-family home should this ordinance pass. Mr. Hals responded that there would be approximately 5 or 6 properties. C. Kerge then asked how many nonconforming lots would be created by the proposed ordinance. Mr. Hals advised that 88 properties would be nonconforming, but if destroyed, those two-family properties would be permitted to rebuild.

Mr. Marcantonio responded to C. Honig's inquiry regarding the increase in population. He advised that from the year 2000 until 2010, there was a 15% increase in children ages 0 through 19. Ms. Wilmit noted that the importance of the COAH issue cannot be underestimated. She advised that every time a single family dwelling is knocked down and replaced by a two-family, it increases Tenafly's COAH obligation and the Borough still has not fulfilled its obligation under the second or third round as of today. She also pointed out that when a single family home is replaced by a two-family not only does it increase the housing density and COAH obligations, it doubles the use of the Recreation, Police, and Fire Departments and the increase in tax revenue does not make up for the increase in cost as it is not a true doubling. She noted that there would also be increased tax revenue by an older single family home being replaced by a newer single family home.

C. Honig asked for an explanation on the state of COAH. Ed Snieckus of Burgis Associates advised that the courts are reviewing the challenges and have overturned the growth share obligations. He explained that COAH is currently in a state of flux and Tenafly has not met its 3rd round fair share as under the current fair share rules. He suggested that 10% of any new development be set aside for affordable housing.

C. Honig inquired whether the Planning Board has consulted with the Assessor concerning tax assessments and property values. Ms. Wilmit responded that the assessed values do not always meet true value and Mayor Rustin advised that Carol Byrne fully supports this recommendation. Mayor Rustin also noted that the last time that the governing body took the stand that COAH is in flux and chose not to be prudent, the result was the construction of the Heights which he feels changed the streetscape. C. Honig commented that before the Heights property was developed, its assessed value was \$5 million and after its development, its assessed value is now \$35 million.

Mr. Hals advised that approximately a year ago, another proposal was made to the Mayor and Council. Although portions of this proposal were put into effect, building height and combined side yard were not addressed. He provided an explanation of each recommendation and advised that the intended goals are to improve the visual appearance of the streetscape which has been affected by the 3-story appearance of many homes and preserve the streetscape, light, and air.

C. Warms questioned whether this method is the more honest way to measure height. Mr. Hals responded that this method is the most common way of measuring height. C. Warms then inquired whether the fact that Tenafly is a hilly town makes it more difficult to defeat the height ordinance. Mr. Hals commented that whether a property is flat or sloped, the difference will be what one is able to do artificially between the corners.

C. Honig expressed his opinion that it's too late to try to address these issues. He also pointed out that no one has written a letter to complain. Mayor Rustin advised that residents have called to complain on numerous occasions about homes that have been built next to them. Ms. Wilmit advised that three members of a prior Council had asked the Planning Board to address this issue.

Mr. Marcantonio expressed his opinion that the proposed revisions help to preserve Tenafly. He pointed out that zoning requirements almost always affect property rights. C. Honig responded that he feels that the proposed changes to the two-family zone are an extreme approach to what he feels may be a legitimate issue. He believes that a conversation can be had between the developers and property owners about rules that can be put into place that can both preserve the look of Tenafly and property rights. He also expressed his concern that there has been no inclusion or discussion with the Board of Education or Tax Assessor to obtain formal data. He feels that the ordinance needs to be reworked to make it more reasonable and fair.

Mayor Rustin applauded the Planning Board for taking charge of looking to the direction in which Tenaflly should be headed. He advised that this meeting has been a work session and expressed his opinion that there is tremendous value when these two boards come together. He advised that should Council decide to move forward, there will be a Public Hearing during which 40 minutes would be set aside for public comment.

PUBLIC COMMENTS

Judy Armonico, 12 Grandview Terrace, advised that she was an original owner of several homes in the R7.5 zone. She expressed her opinion that the proposed changes will have a detrimental effect on property values, rendering many homes nonconforming. She questioned how the Planning Board and Council can single out two-family homes when many single family homes are being replaced by bigger constructions and asked why major changes are not being made in other zones.

Roy Halverson, 288 County Road, stated that he has been a resident since 1975. He pointed out that most properties are less than 75 feet wide and those properties would be nonconforming. He expressed his belief that property rights are essential and the proposed changes will limit economic opportunities for those with smaller lots as it will be difficult for another property owner to rebuild.

Don Merino, 19 Peter Lynas Court, expressed his concern about the effect on schools and commented that if the Borough continues as a community to pass ordinances that encourage bash and build and two families, there will most likely be the need to expand schools. He asked the Planning Board and Council to consider placing a limit on the number of bedrooms.

Mayor Rustin provided Census data showing that in 2000, there were 3,868 households and the population was 13,806 and in 2010, the number of households increased to 3,956 and population to 14,808, with an increase of 250 children.

Charles Lee, Mahan Street, advised that he has lived in Tenaflly over 30 years. He expressed his disappointment that the Planning Board did not have answers for C. Honig's questions. He does not believe that the reasons provided for the proposed changes are good enough and expressed his hope that Council will request data before any revisions are made.

Jonathan Kendall, 446 Tenaflly Road, expressed his belief that it is the massive developments such as the Plaza that have changed character of Tenaflly and feels that the Council is penalizing property owners who have stayed in Tenaflly. He asked that this ordinance be defeated.

Mayor Rustin advised that the Plaza development was not approved by the Planning Board but rather was a COAH settlement.

Lee Marino, Mahan Street, stated that he also lives in R7.5 zone and owns six two-family homes on Mahan Street. He expressed his opinion that the proposed ordinance is severe and believes that two-family homes have been large part of character of Tenaflly as many are 50 to 60 years old. He commented that the fact that homes will not be permitted to rebuild may deter families from moving into Tenaflly. He pointed out that of the approximately 20 houses on Mahan, there are only 4 one-family houses left.

Mayor Rustin responded that Mahan is one of the densest streets in Tenaflly and stated that the question becomes whether the Borough should allow it to become even denser.

Carol Roux, 6 Mahan Street, advised that there are 22 houses on her block and only 4 houses left that are one-family. She stated that she has endured two families being built in her neighborhood and although she understands the concerns about aesthetics, she feels that aesthetics were lost many years ago. She noted that her property value has doubled but does not believe that she will be able to sell her property for that amount should the proposed revisions be made. She suggested proposing changes for particular streets rather than an entire zone.

Rohit Bhanot, County Road, stated that he has been a Tenaflly resident for two and half years and searched for a year and half before he decided on Tenaflly. He owns a five-year old, two-family home on County Road and commented that it does not make sense to build a single family home in his area as it is a busy thoroughfare and is already two-family dominated street. He believes that as the ordinance is written, residents would not be grandfathered as they will not be able to rebuild should their dwelling be 50% destroyed.

Mark Zurlini, Cortlandt Place, noted that the ordinance would not allow him to rebuild which would be very destructive to his family and other residents. He asked that currently existing two-family homes be grandfathered.

Raymond Lucas, 131 Tenaflly Road, informed Council that the home next to his is now a McMansion. He advised that when he bought his small house, it was permitted for a two-family use and the proposed ordinance will limit his rights as a homeowner. He questioned how many members of the Planning Board live in the R7.5 Zone and expressed his opinion that every statement that has been made can be categorized as judgmental and discriminatory.

Mark Feldman, 133 Lylewood drive, advised that he has distributed a statement that he had prepared and remarked that it is the result of two months of work. He explained that he looked at the valuations and believes that the dramatic increase in values prove that the new constructions have been a net positive for Tenaflly. He urged the residents in this zone to keep coming to meetings until the proposed ordinance is defeated.

Norman Dorf, Hudson Avenue, commented that these issues are very difficult and expressed his appreciation to the Council and Planning Board for looking into a solution.

Clay Hatten, W. Mahan Street, advised that his home is the only one-family home left on his street. He criticized the proposed ordinance as he feels it is unfair.

Amy Abrams, 134 Columbus Drive, noted that she does not live in the area affected by the proposed ordinance, but based upon the comments that have been made, she feels that consideration needs to be given to currently existing two-family homes. She expressed her opinion that it is part of the role of Planning Board to consider the character of Tenaflly and what is best for the community as a whole. She believes that density is a legitimate issue as it generates real problems such as traffic and overcrowding of the schools. She commended the Planning Board for the work that they have put into their recommendation.

CONCLUDING REMARKS – MAYOR & COUNCIL

Mayor Rustin asked that members of the Planning Board give their final comments. Jeff Toonkel advised that the Planning Board has spent lot of time discussing this issue and commented that it is a difficult subject and the board will take the comments under advisement. Gus Allen stated that the Planning Board thinks about the long term aspects for Tenaflly and tries to anticipate what the community will look like in the future. He noted that it is a difficult job, but believes that the Planning Board was unanimous on this recommendation. Ms. Wilmit remarked that the board has heard those that will be directly affected. She pointed out that this issue had been before the Council four years ago and if the Borough continues to avoid addressing this issue, who knows what the effects will be four years from now. She noted that the construction of the Plaza and Heights resulted from not dealing with COAH and if changes are not made, COAH will come back to haunt Tenaflly. Sheryl Gaines pointed out that the main concern of the Planning Board is density, not the effect on schools. Theodore Kagy expressed his opinion that it is time to deal with this issue as it has gone on too long and there is no perfect answer.

C. Honig expressed his opinion that this issue is a matter of balancing property rights versus what is good for Tenaflly. He agrees that setting 10% aside to deal with COAH is reasonable, but commented that reducing the number of properties who can build a two-family from 140 properties to 5 seems drastic. He believes that a conversation needs to be had with all interested parties so that a solution can be reached. He criticized Mayor Rustin for expressing his point of view as if it were the view of the governing body as a whole and thanked Mr. Feldman for the information that he worked hard to provide. He assured the residents that the Council will be thoughtful in whatever changes are made.

C. Warms pointed out that this zoning change is being recommended based on the Master Plan and attempts to put together all of the elements that affect the quality of life. Although the proposed ordinance may need fine-tuning, he believes that it will help to control density which has effect on the schools and other Borough facilities. He commented that through the years, the number of neighbors has doubled, backyards have become half the size, and the buffer space has disappeared. He pointed out that COAH is based on number of housing units and those obligations led to the developments mentioned.

C. Barzelatto thanked the Planning Board for its hard work and thanked everyone who spoke. He stated that a lot of information has been brought to Council's table to review before a decision will be made.

C. Kerge also thanked the Planning Board for their work and thanked Mr. Feldman for the information that he has provided. She commented that sometimes well-meaning decisions are made which don't always fulfill the hope of making life in Tenaflly better. She expressed her belief that this idea is ill-conceived and needs to be reworked. She feels that two-family homes are part of Tenaflly

and have special meaning, having allowed people affordability during these difficult economic times. She asked that Tenafly never look at omitting completely one type of housing from the streetscape.

C. Zinna thanked the residents who came and spoke. He expressed his opinion that many questions have been presented this evening upon which the Planning Board should reflect including the grandfathering issue when a property is completely destroyed. He asked that Mr. Hals provide a chart to clarify the metrics. He also asked that the Planning Board reconsider how to treat a street such as W. Mahan that is completely comprised of two-family homes aside from one.

C. LaMastra advised that she was not in favor of this proposed ordinance when it came before Council four years ago and still has issues with it. She stated needs to see the metrics and numbers in order to make a decision. She remarked that she has a problem with taking away property rights of people whose homes are their main investment. She pointed out that the governing body has received more complaints with regard to the size of homes as opposed to type as many single family homes have been torn down and replaced by larger dwellings. She expressed her hope that this discussion can continue in order to move forward and reach a compromise that is fair to everyone.

Mayor Rustin stated that he never suggested that he is speaking for the governing body and never said that he had unanimous support. He commented that a lot of Mr. Feldman's information is not factual and he does not want the public to be misinformed. He advised that this issue is not before Council to make a decision and the Planning Board will take a hard look and decide in which direction they would like to proceed. He believes that the board needs to consider how to handle existing two families and commented that no one considers two families as blights and the idea is not to be exclusionary. He explained that the Planning Board is charged with the important mission of preparing for future and they are not trying to harm anyone. He assured the public that if Council decides to proceed with the proposed ordinance, every person would have to be noticed and will be given opportunity to speak. He thanked everyone for coming, including the Planning Board and the Borough's professionals.

ADJOURNMENT

As there was no further business to come before the Council, on a motion by C. LaMastra, second by C. Honig, and unanimously carried, to adjourn this meeting. The meeting was adjourned at 10:13 p.m.

Respectfully submitted,

Lissette Aportela-Hernandez, MPA, RMC
Borough Clerk