

Approved 5/22/13

**REGULAR PUBLIC MEETING OF THE  
TENAFLY PLANNING BOARD  
April 24, 2013**

Chairperson Wilmit called the meeting to order at 8:00 p.m.

The announcement was made regarding compliance with the Sunshine Law.

The secretary was asked to call the roll:

|                         |                    |                      |
|-------------------------|--------------------|----------------------|
| Voting members present: | Mayor Peter Rustin | Councilman Jon Warms |
|                         | Mary Beth Wilmit   | Kevin Tremble        |
|                         | Gus Allen          | Eugene Marcantonio   |
|                         | Ted Kagy           | Sheryl Gaines        |
|                         | Marc Harrison      |                      |

|                        |                 |          |
|------------------------|-----------------|----------|
| Voting members absent: | Jeffrey Toonkel | John Kim |
|------------------------|-----------------|----------|

|                 |   |
|-----------------|---|
| Others present: | Jeffrey Zenn, Esq.                        |
|                 | David Hals, P.E.                          |
|                 | Debra Dworkis, Land Use/Housing Assistant |

Approval of the minutes of the Special Public Meeting of March 13, 2013, was tabled as board members did not have sufficient time to review same. This matter will be placed on the agenda for the next Planning Board meeting.

**SITE PLAN WAIVER APPLICATION** (Change of a Permitted Use)

PB# 1-13-04, Applicant: Min Yu (D&K Management LLC)

Block 1011, Lot 6, 20 Washington Street

Mr. Yu is the owner of the above referenced property. It was previously owned by Saga Electronics. His tenant would like to provide educational services on the second floor. He will need to move the stairs in order to provide a separate entrance for the tenant. There was some concern that there was Zoning Board approval granted to the previous owner to have a mixed use building, with three apartments upstairs. Mr. Yu noted that no apartments have been built. The upstairs is currently vacant. Mr. Zenn advised the board that a site plan waiver can be granted for this application. The property owner would still have the right to put in the apartments as a conforming use if he so wished. Approval tonight does not cut off or void the approval for the use variance should the owner wish to revisit that scenario. A site plan waiver application would be required for all new tenants. It was noted that this application had been reviewed by Zoning Officer Bob Byrnes.

A motion was made by Mr. Marcantonio and seconded by Mr. Tremble to approve this site plan waiver application. A voice vote carried the motion. All voted in favor; none were opposed. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Tremble, Mr. Harrison, Mr. Marcantonio, Mr. Kagy, Mrs. Gaines, Councilman Warms and Mayor Rustin.

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A motion was made by Mr. Allen and seconded by Mr. Tremble to approve Resolution of Approval for PB#1-13-04, Moshe Akim, Block 1012, Lot 7, 6 Highwood Avenue. A voice vote carried the motion. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Marcantonio, Mr. Tremble, Mr. Kagy, Mrs. Gaines, Councilman Warms and Mayor Rustin.

A motion was made by Mr. Marcantonio and seconded by Mr. Harrison to approve Resolution of Approval for PB#1-12-16, Friends of Grace Seniors, Inc., Block 1104, Lots 13, 14 and 15, 96, 100 and 106 Grove Street. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Tremble, Mr. Harrison, Mr. Marcantonio, Mr. Kagy, Mrs. Gaines, Councilman Warms and Mayor Rustin.

### **PUBLIC HEARINGS**

**PB#1-12-14 (amends PB#1-11-02) Site Plan/Variance**

Applicant: Dafnia, Inc. (for Tenaflly Diner)

Block 1010, Lot 4, 16 W. Railroad Avenue

Jacqueline D'Arminio, Esq. is appearing this evening on behalf of the applicant. Mr. Zenn noted that the board had requested that the Borough Engineer as well as the Board Engineer review culvert plans submitted by Michael Hubschman, engineer for the applicant, at the March 13, 2013, meeting. Both engineers reviewed the plans as requested.

For the record, Mr. Zenn entered the following exhibit:

- Exhibit A-5, 4/24/13, Letter dated April 24, 2013, from Borough Engineer Andrew Hipolit, Maser Consulting, PA

Mr. Hipolit has suggested that the applicant replace the culvert within the right-of-way between the property lines. Mr. Hals had suggested that the applicant replace the culvert in front of the diner plus an additional ten feet on both sides, but not to the property lines. Mr. Hals testified that he had met with Michael Hubschman and is satisfied with the culvert replacement plans submitted by him on March 13, 2013. Mr. Hubschman's plans indicate replacing approximately 50' of the culvert; while Mr. Hipolit's request is for the applicant to replace approximately 150' of the culvert. Mr. Hals noted that the cost of replacing the culvert between the property lines will substantially increase the cost and is far more of an expansive replacement.

Ms. D'Arminio noted that she had received a copy of the Borough Engineer's letter; however, the applicant will not comply with his request to replace the culvert between the property lines, but will comply with the other recommendations and comments set forth in his letter of April 24, 2013. She further indicated that the applicant will comply with the recommendations and comments set forth in the Board Engineer's letter of November 28, 2012.

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There was much discussion regarding the opinions of the engineers. There was a brief discussion on the location of dumpsters and whether they could be fenced in to screen them from the public. The applicant indicated that there are three dumpsters and two of the dumpsters are the property of the Borough and used for cardboard collection. It was decided to leave the dumpsters where they are with no fencing.

Board members are satisfied with Mr. Hals determination of replacing approximately 50 feet of the culvert in front of the diner. Mr. Hals further noted that the applicant would need to appear before the Mayor & Council for approval to build/construct in the right of way of West Railroad Avenue.

A motion was made by Mrs. Gaines and seconded by Mr. Harrison to approve Resolution of Approval for PB#1-12-14 (amends PB#1-11-02), Dafnia, Inc. (Tenaflly Diner), Block 1010, Lot 4, 16 W. Railroad Avenue. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Tremble, Mr. Harrison, Mr. Marcantonio, Mr. Kagy, Mrs. Gaines, Councilman Warms and Mayor Rustin.

**PB#1-01-13 - Minor Subdivision/Variance Application**

Applicant: Norman Dorf

Block 1505, Lot 10 and Block 2604, Lots 1.01 & 1.02, 232, 236 & 240 Hudson Avenue

Mrs. Gaines recused herself from the above application.

Mr. Matthew Capizzi is the attorney for the applicant. Ms. Allyson Kasetta is an attorney representing several neighbors who are objecting to the Dorf subdivision citing privacy concerns--Brian R. & Kim Starer Landzberg, 86 Glenwood Avenue, Robert A. & Karen I. Silber, 87 Glenwood Road and Timothy C. & Nerissa S. Dutta, 2 Millers Crossing.

Mr. Capizzi marked for the record:

- Exhibit A-5, 4/24/13, Letter from Matthew Capizzi, Esq. to Planning Board Attorney, Jeffrey Zenn, re: additional plantings

Mr. Capizzi briefly reviewed his letter with the board. His client had agreed to install additional plantings. The applicant had met with the neighbors and the location of the plantings was marked out. Ms. Kasetta acknowledged that she had received a copy of the letter and her clients are in agreement with its contents.

Mr. Capizzi called upon Mr. Hans Erdenberger of Environetics Group Architects P.C.. He gave his credentials to the board. He was qualified as an expert in the field of architecture.

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The following exhibits were marked and entered for the record:

- Exhibit A-6, 4/24/13, Colorized version House Rendering
- Exhibit A-7, 4/24/13, Colorized version, Front & Right Side Elevations, plans dated 2/14/13
- Exhibit A-8, 4/24/13, Colorized version, Rear & Left Side Elevations, plans dated 2/14/13

Mr. Erdenberger reviewed the house rendering with the board citing the materials that will be used including real stucco, stone veneer, copper gutters/leaders and wood carriage doors. The other exhibits were reviewed for the board as well.

The meeting was open to the public for questions of Mr. Erdenberger. There being no one from the public with questions for him, this portion of the meeting was closed to the public.

Mr. Capizzi called upon Paul Keyes to give his testimony. As Mr. Keyes has appeared before the Planning Board before, he was qualified as an expert in the field of landscape architecture. He reviewed his landscape plan for the site, Exhibit A-4, which was submitted at the March 27, 2013 meeting. He noted that he had received Mr. Capizzi's letter, Exhibit A-5, and revised his plans (copies of which will be provided to the board) to include the following:

1. Three (3) Norway Spruce with a minimum planting height of 20'
2. One (1) Leyland Cypress with a minimum planting height of 12'-14'
3. Five (5) Norway Spruce with a minimum planting height of 12'14'

Mr. Capizzi marked the following exhibit into the record:

- Exhibit A-9, 4/24/13, Landscape Plan prepared by Paul Keyes, Landscape Architecture, last revised 4/23/13, to reflect settlement agreement plantings

Mr. Keyes advised the board that he had met with Bob Beutel, Director of the Department of Public Works to review his plans. He indicated that he will meet any further requirements given by Mr. Beutel on the landscaping for the site.

The meeting was open to the public for questions of Mr. Keyes. There being no one from the public with questions for him, this portion of the meeting was closed to the public.

Mr. Hals was sworn in to give his testimony. He indicated that this application does not trigger the municipal storm water management ordinance in that a portion of the stream is piped. He noted that the violations on the site are not yet lifted as the DEP is waiting for the plants to flower. Once the plants flower, a case manager will inspect the site and the violations can be lifted.

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The meeting was open to the public for questions of Mr. Hals. There being no one from the public with questions for him, this portion of the meeting was closed to the public.

Mr. Capizzi gave a brief summation of the application and urged board members to approve the application as presented.

The meeting was open to the public for comments on the entire application. There being no one from the public with comments, this portion of the meeting was closed to the public.

There was some board concern regarding the scale of the home being constructed related to the adjacent neighborhood homes. The topic of FAR was discussed as it relates to lot size and setback.

A motion was made by Mr. Marcantonio and seconded by Mr. Kagy to approve the application for as submitted with all Borough stipulations and conditions to be outlined in the memorializing resolution. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Harrison, Mr. Marcantonio, Mr. Kagy, Councilman Warms and Mayor Rustin. Voting NO: Mr. Tremble.

Board members were urged to filing his/her 2013 Financial Disclosure Statement online. A signed certification sheet is to be forwarded to Borough Clerk Lissette Aportela-Hernandez.

A letter was received from Elliot Urdang, on behalf of his client, BMW of Tenafly, Block 1309, Lot 3, 245 County Road. The applicant respectfully requests that his matter be withdrawn without prejudice. The board accepts this request and directed Ms. Dworkis to return any remaining escrow money to the applicant.

The Planning Board was been asked to review and comment on Ordinance No. 13-10, an Ordinance to Amend and Supplement Chapter 35 of the Revised General Ordinances of the Borough of Tenafly introduced at a regular meeting of the Mayor and Council on March 12, 2013. A motion was made by Mr. Allen and seconded by Mr. Kagy that a memo be forwarded to the Mayor & Council noting that the board found that the Ordinance is not inconsistent with the Master Plan. A voice vote carried the motion. All voted in favor; none were opposed.

The Master Plan Subcommittee, consisting of Mrs. Wilmit, Ms. Dworkis, Mr. Allen and Councilman Warms, met Borough Planner Joe Burgis to review a draft of the new Master Plan. There will be one more subcommittee meeting before the draft is presented to the full board. The matter will be placed on an agenda for a public hearing on June 26, 2013, if the board is able to do a comprehensive review.

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Mr. Tremble noted that the Historic Preservation Commission has an exhibit at the Library for the months of May and June.

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A motion was made by Mr. Allen and seconded by Mr. Harrison to adjourn the meeting at 10:20 p.m. A voice vote carried the motion. All voted in favor; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi  
Planning Board Secretary