

Approved 12/9/15

**SPECIAL PUBLIC MEETING OF THE
TENAFLY PLANNING BOARD
OCTOBER 14, 2015**

Chairwoman Mary Beth Wilmit called the meeting to order at 7:30 p.m.

The announcement was made regarding compliance with the Sunshine Law.

The secretary was asked to call the roll:

Voting members present:	Mary Beth Wilmit	Gene Marcantonio
	Gus Allen	Ted Kagy
	Kevin Tremble	Councilman Mark Zinna
	Jon Warms	Mayor Peter Rustin
Voting members absent:	Marc Harrison	Eugene Kwon
	Sheryl Gaines	
Others present:	Jeffrey Zenn, Esq.	
	David Hals, P.E.	

PUBLIC HEARING

Mrs. Wilmit explained that the purpose of this Special Public Meeting is to hear comments from all interested parties regarding the proposed Housing Element and Fair Share Plan document, prepared by Burgis Associates, Inc., dated September 29, 2015 and to consider its adoption.

Mr. Zenn explained that Burgis Associates, the Borough's planner created the proposed Housing Element and Fair Share Plan dated September 29, 2015. The submitted plan has been available for review in the Planning Board office as of October 1, 2015. The proper notices have been sent to the newspaper, the clerks of the surrounding municipalities and the Bergen County Planning Board.

Mr. Zenn called upon Mr. Joseph H. Burgis, PP, AICP, the Borough's Planner to review the proposed Housing Element and Fair Share Plan document. Mr. Burgis was sworn in to give his testimony to the board. He stated that the proposed Housing Plan was in response to the New Jersey Supreme Court's decision of March 20, 2015 to allow municipalities, who previously submitted their third round obligation, to submit a revised plan in fulfilling their affordable housing obligation. By submitting amended Housing Plan, it will entitle the municipalities to temporary immunity from builder's remedy lawsuits.

Mr. Burgis summarized the proposed Housing Plan, the Borough's affordable housing obligation and how the Borough plans to meet its affordable housing obligation. He noted that if the Planning Board were to adopt this proposed Housing Plan, the next step is to submit the resolution to the Mayor and Council for their endorsement and then to submit the Plan to the courts prior to the November 8th deadline.

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Mrs. Wilmit stated that the full board has had multiple meetings to review and comment on the proposed Housing Plan document prepared by Burgis Associates. Mr. Burgis addressed the question posed by board members that in identifying potential affordable housing sites within the borough, the Housing Plan can always be amended to recognize alternate properties. At this point in time, approving the Housing Plan does not constitute re-zoning of any borough properties. This Housing Plan acts as a Policy Statement to establish the Borough's affordable housing obligation and how it will fulfill the State's requirements.

The meeting was open to the public for questions of Mr. Burgis in regard to the proposed Housing Element and Fair Share Plan. Mr. Jeffrey Dorf, property owner of 141 Piermont Road, voiced his concern because his property was identified as a potential site for affordable housing development. Mr. Burgis explained the state requires that municipalities identify available sites to meet their affordable housing obligation. The property owner is notified prior to any formal action.

There being no one else from the public with additional questions in regard to the proposed Housing Plan or for Mr. Burgis, this portion of the meeting was closed to the public. A motion was made by Mr. Marcantonio and seconded by Mr. Tremble to adopt and approve the Resolution for the proposed Housing Element and Fair Share Plan BA: 2890.04II draft with revised maps prepared by Burgis Associates, Inc. dated September 29, 2015 to amend the Master Plan. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Tremble, Mr. Warms, Mr. Marcantonio, Mr. Kagy, Councilman Zinna and Mayor Rustin.

The board took a five (5) minute recess and resumed the meeting at 8:00 p.m.

PB# 1-15-05, Site Plan with Variances
Block 1005, Lot 9
87 County Road
Applicant: Dr. Imad Baghal

Mr. Zenn noted that the hearing this evening is a continuation of the application from the meeting of September 9, 2015. Mr. Steven Sinisi, Esq. is the attorney for the applicant. Mr. Sinisi stated that he is ready to give his summation tonight. After hearing the testimony of the various professionals who worked on the application for the construction of a childcare center at 87 County Road in the Borough of Tenaflly, Mr. Sinisi reiterated that this is a permitted use in the zoning district with an inherently beneficial use meeting all the criteria. Mrs. Wilmit addressed the public maintaining that anyone wishing to speak must approach the microphone state their name and address to be sworn in for the record. Each person will be given the opportunity to speak once and will be limited to five (5) minutes.

The meeting was opened to the public for general questions or comments on the entire application. The following people were sworn in by Mr. Zenn:

- Christina Biaggi, Palisade, NY
- Lori Starer, Stanton Road
- Eileen Enger, DeMott Street
- Risa Rosenberg, Newcomb Road
- Alida Krafnoff, Highwood Avenue
- Kevin Wright, Riveredge, NJ
- Penny Colman, Englewood, NJ
- Chris Sagona, Hartridge
- Jill Horbacewicz, Sussex Road
- Coline Jenkins, Greenwich, CT
- Joy Herman, Oak Avenue
- Nina Sieden, Willow Avenue
- Liela Sterling,
- Julia Horbacewicz, Sussex Road
- Joann Meistrich, Dean Drive
- John Rizzo, Esq., Hasbrouck Heights, NJ (attorney for property owner)
- Marilyn Moscone, W. Railroad Avenue
- David Wall, Cameron Road
- Howard Sieden, Willow Avenue
- Karen Neus, Engle Street
- Thomasina Schwartz, Oradell, NJ

Concerns/comments raised included:

- the historical significance of the building, support of the memory of Elizabeth Cady Stanton and the Women's Suffragette Movement
- the variance for minimum lot requirement
- traffic congestion/air quality on County Road and its impact on the quality of life for the area from the increased traffic in the area
- qualifications of teachers in the daycare center
- food served at the center
- number of employees and managers on site
- criteria for a safe site and the evacuation plan
- what will happen to the building if the daycare center is not successful
- drop-off and pick-up times
- Planning Board members should decide what is good for all the residents of the Borough
- objection to the design of the building

Mr. Sinisi noted for the record that although he did not cross-examine each individual after they made their comment, this does not mean that he accepts the opinion(s) of the public.

During the Open Comment Session for the general public, the following people presented documents to be entered into the record as an objection to the application:

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- David Wall, Cameron Road, Chairperson of the Tenaflly Historic Preservation Commission, Exhibit O-1, 10/14/15, Report and Recommendation of the Tenaflly Historic Preservation Commission to the Tenaflly Planning Board regarding 87 County Road, Tenaflly, New Jersey, dated May 13, 2015. This letter was originally entered into the record at the Planning Board meeting of May 13, 2015 as Exhibit A-3;
- Coline Jenkins, Greenwich, CT, Exhibit O-2, 10/14/15, "Demolition of a National Historic Site"

Mr. Sinisi objected to both exhibits as having no significant value to the Board in determining the approval of this application. Mr. Zenn admitted the documents into evidence noting Mr. Sinisi's objection.

There being no one else from the public with questions or comments on the entire application, this portion of the meeting was closed to the public.

Mr. Sinisi began his closing comments. He thanked the Planning Board for allowing him to present this application to build a daycare center which is a permitted use in the B-2 zone and addressed that by state statute it is an inherently beneficial use to the Borough and the community.

Mr. Sinisi stated that the applicant represented to the Historic Preservation Commission that they will affix a plaque on site recognizing the historical significance of the property. A plaque will be displayed in the vestibule of the daycare center paying homage to the contributions of Elizabeth Cady Stanton and the Women's Suffragette Movement. He also reminded the Board that Mr. Jarmel, the architect on the project, testified that the building in its present state is not ADA compatible.

During the hearing process, Mr. Sinisi called various professionals; architect, engineer, traffic, The Learning Experience manager and a planner to testify to the characteristics of the project. Each professional stated that the application conforms to the Borough's zoning ordinances and complies with the Borough's building codes. As for the requested variances and waivers, the applicant has stated that a childcare center is an inherently beneficial use to the community and under state statute it is a permitted use in a commercial zone. The variance requested for the minimum lot size can be granted in citing the MLUL regulations in regard to "C" variances; its benefits substantially outweigh any detriment or any adverse effect to the surrounding community.

Mr. Sinisi noted that after Chief Chamberlain's memo dated May 22, 2015, the plan was revised to its present design to accommodate the Chief's comments. The building was repositioned on the property, the traffic circulation is clockwise, the exit driveway lane provides stacking for at

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least seven (7) vehicles waiting to exit the site and the driveways are restricted to right turn movements into and out of the property.

In concluding his summation, Mr. Sinisi reminded the Board that their position in ruling on this application is quasi-jurisdictional. They should evaluate the application on the evidence provided by the professionals called to testify. He reiterated that the application before the Board meets all the criteria and is respectfully requesting approval of this application.

Mr. Zenn explained the role of the Board in considering this application for approval. He reviewed the variances and confirmed that board members should judge the application on the evidence submitted by the professionals. Mr. Zenn revisited the fact that the application is a permitted use in the B-2 zone and complies with the MLUL regulations in regard to "C" variances.

Mayor Rustin agreed with the right turn movements into and out of the property. He is hopeful that with this condition as part of the Resolution, the county will not overturn this condition. Mr. Hals stated that the County will contact him for clarification and in his opinion will comply with the Borough's conditions. Mr. Allen was concerned with the evacuation and snow removal plans.

As a condition of approval, the applicant will work with the Tenafly Office of Emergency Management to refine the evacuation plan for the center and will remove snow from the property in order to not lose any parking spaces after a snowfall.

Many of the Planning Board members voiced concerns regarding the variance for the minimum lot size, increase traffic on County Road, ingress/egress driveways, and availability of alternate sites within the Borough, historical significance of building and vacancy of the property for five (5) years.

Mr. Zenn reviewed the requirements/stipulations to approval of the application:

1. Site Plan Approval with Variances;
2. Maximum Sign Area of 64 sq. ft.;
3. Conditions of Safe Zone – refer to Tenafly Office of Emergency Management;
4. Designation of Historical Events – placing of commemorative plaque in center's vestibule and poll sign on County Road;
5. Condition of Snow Removal – completely off site;
6. No birthday parties will be held on site;
7. Right Turns in and Right Turns Out;

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8. Confirm with Bergen County that there will be no Left Hand Turns into the parking lot;
9. The number of students will be limited to one hundred sixty-six (166) or less if state specified;
10. Any other conditions stated on the record

A motion was made by Mr. Marcantonio and seconded by Councilman Zinna to approve the site plan with variances. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Warms, Mr. Marcantonio, Councilman Zinna and Mayor Rustin. Voting NO: Mr. Allen, Mr. Tremble and Mr. Kagy.

At the request of Mrs. Wilmit, Councilman Zinna gave the Board an update on the application of 53 Knickerbocker Road from the discussion at the Mayor and Council meeting of October 13, 2015. Councilman Zinna explained that the Council was approached by Tenaflly residents to save the property. Tenaflly resident, Bob Perez offered to purchase the house, have a 15-25 ft. set back around the house, pay for renovations and have the house deemed historical. The Borough would retain ownership of the remainder of the property as open space land with the possibility of making it a park. The governing body has reached out to Mr. David Watkins to discuss the suggestion and is waiting to hear from him.

Councilman Zinna explained there are some concerns with entering into a land deal with a private citizen. There must also be two (2) public hearings scheduled to see whether the public supports the idea of the town purchasing the property and then selling off the house. The most important question is how the Borough will come up with the necessary funds and how this purchase would affect the Borough's financial situation. The deadline for the ninety (90) day period requested by Mayor Rustin in order to form a committee to find an organization to look into purchasing the entire parcel of property and maintain it in its current condition, preserving the house and acreage on site ends October 24, 2015. Councilman Zinna stated that it may be possible that the property owner may extend the deadline.

The memorialized resolution for the application, 53 Knickerbocker LLC was adopted on September 9, 2015 and noticed in The Record on September 12, 2015. Mr. Zenn stated that the resolution could be challenged forty-five (45) days from the notice date.

A motion was made by Mr. Kagy and seconded by Mr. Allen to adjourn the meeting at 11:15 p.m. A voice vote carried the motion. All were in favor; none were opposed.

Respectfully submitted,

Christine Attanasio
Acting Planning Board Secretary