

Approved 10/26/16

**REGULAR PUBLIC MEETING OF THE  
TENAFLY PLANNING BOARD  
SEPTEMBER 28, 2016**

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:	Mary Beth Wilmit	Mayor Peter Rustin
	Gus Allen	Gene Marcantonio
	Marc Harrison	Ted Kagy
	Jon Warms	Sheryl Gaines
	Adam Michaels	

Voting members absent:	Councilman Mark Zinna	Eugene Kwon
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Others present:	Jeffrey Zenn, Esq.
	David Hals, P.E.

A motion was made by Mr. Kagy and seconded by Mr. Marcantonio to approve the minutes of the Work Session of September 14, 2016. A voice vote carried the motion. All eligible members voted in favor; none were opposed.

**PUBLIC HEARING**

PB#1-16-02, Minor Subdivision with variance

**Applicant: David & Daryn Katz**

Block 1709, Lot 5

86 Hillside Avenue

Planning Board attorney Jeff Zenn announced that tonight's hearing is a continuation of the application from September 14, 2016. He noted that the following board members had listened to the tape recordings of that meeting and signed certifications for the record: Mrs. Mary Beth Wilmit, Mr. Ted Kagy, Mr. Adam Michaels and Councilman Mark Zinna. All members present will be eligible to vote on the application should testimony be concluded this evening.

Mr. Elliot Urdang is the attorney for the applicant. He indicated that he would be calling two (2) witnesses--his planner and the applicant, Mr. Katz. Mr. Urdang called upon Mr. Sean Moronski, planner for the applicant. He remained under oath from the last meeting. He entered the following exhibit into the record:

- Exhibit A-5, 9/28/16, Site Sketch, Proposed Dwelling No. 86 Hillside Avenue, prepared by Michael Hubschman, P.E., dated 9/19/16

Tenaflly Planning Board Regular Public Meeting  
September 28, 2016  
Page 2

Mr. Moronski reviewed the exhibit with the board members. This exhibit was not delivered to the Planning Board prior to the meeting tonight. He noted that the exhibit depicted what could be built on the existing lot. A home of approximately 8700 square feet could be built according to code. All existing structures could be removed as a matter of right without further approval from the Borough. There is no historic designation for the property. Mr. Moronski testified that the homes on the site presently are not in good condition. He indicated that a 2-lot subdivision with two (2) homes would be more in character with the neighborhood as opposed to one (1) larger home which could be built on the site if not subdivided. He reviewed the C2 variance guidelines for the board.

The following exhibits were entered into the record:

- Exhibit A-6, 9/28/16, Set of two (2) photos taken by Elliot Urdang, depicting 213 Engle Street, Tenaflly, NJ
- Exhibit A-7, 9/28/16, Set of three (3) photos taken by Elliot Urdang, depicting 216 Engle Street, Tenaflly, NJ

Mr. Moronski reviewed these photos with the board noting that they accurately depict the homes at the above addresses. Both homes are oversized. Mr. Urdang indicated that one of the property owners had applied for a subdivision but it was denied. Mr. Urdang noted that the denial of a subdivision can result in a McMansion being built.

Board members expressed concerns regarding the homes in the neighborhood, some of which are smaller on the other side of the street from the subject property. The two (2) homes proposed should the subdivision be granted could be 4,200 sq. feet each. Mr. Moronski indicated that the homes would fit in nicely with the neighborhood whereas a larger home would not.

The meeting was open to the public for questions of Mr. Moronski. Mr. Hrishikesh Vinod, Hillside Avenue, questioned if Mr. Moronski was being paid by the applicant to give his testimony. Mr. Moronski indicated that the applicant is his client and he was being paid. There being no further questions for Mr. Moronski, this portion of the meeting was closed to the public.

Mr. Urdang called upon David Katz to give his testimony. He was sworn in by Mr. Zenn. He is the applicant and owner of the property. He told the board that he has lived in Tenaflly for the past year and a half with his wife and two (2) children, ages 5 and 2. His wife is employed as a teacher in Tenaflly; and he is an employment litigator. He indicated that he and his family will live in one home while the other is constructed, if the subdivision is granted.

He noted that both the inside and outside of his home and the rear structure are in states of disrepair. The roof leaks in the main house and needs to be replaced. He indicated that he will demolish the homes on the site one way or the other. He agreed to stipulate reasonable design elements and conditions if the subdivision is granted. He noted that each concern raised by residents last month has been addressed.

Tenafly Planning Board Regular Public Meeting  
September 28, 2016  
Page 3

The meeting was opened to the public to question Mr. Katz. There being no one with questions, this portion of the meeting was closed to the public.

The meeting was opened to the public for comments on the entire application. The following residents testified they were in favor of the subdivision and indicated the two (2) smaller homes would fit in nicely with the neighborhood:

- Alison Kuslansky, Linden Place
- Tamar Rapaport, Hillside Avenue
- Jill Gabay, Edward Court

Mr. Carl Zipperle, Hillside Avenue, requested that the following exhibits be entered into the record:

- Exhibit O-2, 9/28/16, Set of nine (9) sheets, compiled by C. Zipperle
- Exhibit O-3, 9/28/16, Aerial View of Hillside Avenue from Serpentine to Engle, submitted by C. Zipperle
- Exhibit O-4, 9/28/16, Analysis of Impact to Lot Size, Two (2) page packet, Carl Zipperle

He reviewed all of these exhibits with the board some of which depict what is likely to happen should be subdivision not be granted. He indicated that the homes shown were built after 2002. Mr. Zipperle read a prepared statement into the record, which will become part of the municipal Planning Board file for the application. After his testimony, he was asked if he preferred to have one (1) home or two (2) on the property located directly across the street. He indicated that he wanted one (1) home. He is against the subdivision.

There were no questions from board members. Mr. Urdang cross examined Mr. Zipperle in regards to 213 Engle Street. He noted that a previous application for a subdivision was heard by the Planning Board and the application had been denied. If the application had been approved, two (2) homes would have been constructed on the site and not the very large home that is there presently. Mr. Urdang had no further questions.

Mr. Zipperle wanted to call a witness. Mr. Urdang objected. Mr. Zipperle indicated that he was acting pro se. He wanted to call upon Mr. David Wall of the Historic Preservation Commission. It was Mr. Zipperle's opinion that since the Planning Board had sent the application for review by the Historic Preservation Commission that the Planning Board should be bound by any report generated by the commission. Mr. Zenn noted that the Planning Board is not bound by any report of the Historic Preservation Commission, it is advisory in nature. Mrs. Wilmit advised Mr. Zipperle that Mr. Wall had previously testified at the last hearing and could be heard again tonight, but not as his witness.

Approved 10/26/16

Tenaflly Planning Board Regular Public Meeting  
September 28, 2016  
Page 4

The board took a ten (10) minute break. Mrs. Wilmit called the meeting back to order and reminded the public that each resident would be given five (5) minutes for comments on the application. Mr. Zipperle's comments well exceeded the five (5) minute timeframe.

Mr. David Wall, Class B member of the Historic Preservation Commission, was sworn in as an individual with expertise in the history of Tenaflly. The board and Mr. Urdang accepted Mr. Wall as an expert witness, but noted that the property in question was not designated as historic by Borough ordinance.

Mr. Wall requested that the following exhibit be entered into the record:

- Exhibit O-5, 9/28/16, Photo of Hillside Avenue and Page 14 from "Tenaflly's Identified Photograph History" by Alice Renner Rigney

He noted that Hillside Avenue is a special historic street and that there were previous efforts by the Historic Preservation Commission to designate it. Mr. Wall doesn't want any new dwellings on the site and would like to see the current structures repaired. In referencing an architectural rendering which had previously been submitted, he noted that the new homes don't look historic or have any historical features.

The following residents voiced their objections/concerns/approvals to the subdivision, citing drainage issues, traffic issues, location of a fire hydrant, enhancing the neighborhood, and keeping the streetscape as it is already;

- Alita Kratnoff, Highwood Avenue
- Hrishikesh Vinod, Hillside Avenue
- Mary Salpukas, Hillside Avenue
- Jason Hart, Hillside Avenue

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

Mr. Urdang gave a brief summation to the board urging the approval and granting of this subdivision application. There was some discussion if the applicant would stipulate to conditions regarding the size/type of homes shown on the exhibit. Mr. Urdang indicated that he would and referenced the subdivision approval granted on 59 George Street. Mr. Zenn reminded the board that this application is to be heard on its own merits. No precedent was set by granting the George Street subdivision.

The board members were polled for their comments on the application. There was much discussion regarding increased density, there being two (2) homes instead of one (1) on the property, the threat of a McMansion should the subdivision not be granted, community feedback for this application in

Approved 10/26/16

Tenaflly Planning Board Regular Public Meeting  
September 28, 2016  
Page 5

that not all residents who spoke were in favor of the application, and a change of the streetscape with the subdivision.

A motion was made by Mr. Marcantonio and seconded by Mr. Warms to deny the subdivision application. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Warms, Mr. Harrison, Mr. Marcantonio, Mr. Kagy, Mrs. Gaines and Mayor Rustin. Voting NO: Mr. Michaels

Mrs. Nicolosi noted that the next meeting is a Work Session on Wednesday, October 5, 2016. There is presently no business listed on the agenda. A motion was made by Mr. Kagy and seconded by Mr. Allen to cancel the Work Session of October 5, 2016. A voice vote carried the motion. All voted in favor; none were opposed. Mrs. Nicolosi will handle notice requirements.

Mayor Rustin gave the board a brief update on COAH. The Borough's immunity from builder's remedy lawsuits has been extended to October 31, 2016. He noted that the Borough is being asked to again look at additional overlay zones for affordable housing. He has a call in to Ed Buzak, Special COAH counsel, to discuss the purchase of three (3) homes for affordable housing purposes. This purchase was approved by the Mayor & Council at last evening's meeting.

A motion was made by Mr. Marcantonio and seconded by Mr. Harrison to adjourn the meeting at 10:50 p.m. A voice vote carried the motion. All were in favor; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi  
Planning Board Secretary