

Approved 1/25/12

**REGULAR PUBLIC MEETING OF THE
TENAFLY PLANNING BOARD
December 14, 2011**

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:	MaryBeth Wilmit	Mayor Peter Rustin
	Gus Allen	Mark Zinna
	Kevin Tremble	Jeffrey Toonkel
	Marc Harrison	Eugene Marcantonio
	John Kim	Steven Greene

Voting members absent: Councilman Barry Honig

Others present: Jeffrey Zenn, Esq.
David Hals, P.E.
Dee Lorberbaum, MLUL Officer

A motion was made by Mayor Rustin and seconded by Mr. Allen to approve the minutes of the Regular Public Meetings of October 26, 2011, and November 9, 2011. A voice vote carried the motion. All voted in favor; none were opposed.

SITE PLAN WAIVER

Mr. Zinna recused himself from the dais. Mr. Sal Esposito is the owner of Toast Bagel & Deli, which presently operates a store consisting of approximately 994 square feet located at 35 Riveredge Road, Block 1003, Lot 5. Toast Bagel & Deli is an existing tenant in the building. The applicant is applying for site plan waiver approval to enlarge its existing space by expanding into the adjacent vacant space consisting of approximately 1,036 square feet, formerly occupied by Cartridge World which had previously received approval of site plan waiver from this Board.

The space is currently vacant and the applicant proposes seating with eight tables, additional storage and a proposed office. The applicant had submitted a site plan waiver application dated November 30, 2011 and architectural plans prepared by Chris Blake, Architect, consisting of one sheet, A-1 showing the proposed layout. Mr. Esposito testified that his gross square footage in the building will now be 2,030 square feet. The kitchen will not expand as a result of this application.

The Planning Board has determined that the use is a permitted use. The existing use by Cartridge World was for retail and there is no additional parking required.

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The applicant testified that the proposed floor plan layout as shown on the plans were his intended layout and usage of this space and stipulated to that effect.

Further, the Planning Board received notice from the Zoning Officer that no variances are required in connection with this application. The proposed expansion of the restaurant conforms with the use provisions of the LDR for the property and the expansion will not affect the exterior appearance of the building as it will simply convert a currently vacant unused space into a restaurant seating area.

A motion was made by Mayor Rustin and seconded by Mr. Toonkel that the application of Toast Bagel & Deli for waiver of site plan review is hereby granted upon the following conditions:

- A. Applicant shall file for zoning and building permits, as applicable, with the Zoning Officer and Construction Official and shall file building plans in strict accordance with the site plan review by the Planning Board;
- B. This approval is conditioned upon applicant obtaining all other necessary governmental permits and approvals; and
- C. The applicant shall comply with all applicable Borough ordinances including the Borough's development fee ordinance

The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Tremble, Mr. Toonkel, Mr. Harrison, Mr. Green, Mr. Marcantonio, Mr. Kim and Mayor Rustin

A motion was made by Mr. Allen and seconded by Mr. Harrison to approve the Resolution of Denial for the Application of Schowl Hedvat, Block 2103, Lot 3, 28 Elkwood Terrace. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Toonkel, Mr. Harrison, Mr. Marcantonio and Mayor Rustin.

A motion was made by Mayor Rustin and seconded by Mr. Allen to approve the 2012 Planning Board Meeting Schedule. A voice vote carried the motion. All voted in favor; none were opposed. Mrs. Lorberbaum will publish the meeting schedule.

PUBLIC HEARING

PB#1-11-07 – Minor Subdivision/Variance

Applicant: Alfonso Diasparra

Block 1310, Lot 9, 143 Magnolia Avenue

Messrs. Zinna and Greene are not eligible to vote on this application.

Mr. Elliot Urdang is the attorney for the applicant. Mr. Urdang briefly reviewed the application with the board. The property is located on the northwesterly side of Magnolia Avenue and is in the R-9 Single Family Residential Zone District. The property is 19,420 square feet and is

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improved with a 2-family dwelling and a garage with an apartment. The existing 2-family dwelling and garage are non-conforming uses in the R-9 Zone.

The applicant proposes to subdivide the existing property into two lots. The southerly lot (Proposed Lot 9.02) is to contain the existing dwelling which is to be converted to a single family dwelling. A new garage and driveway are proposed for the lot. The northerly lot (Proposed Lot 9.01) is to be a new building lot.

The proposed lots exceed the minimum lot area requirements for the R-9 Zone District. The existing property has a lot frontage and lot width of 127.67 feet. The proposed lots are conforming to the minimum frontage requirements, but require lot width variances--lot width at setback for both Proposed Lot 9.01 and Proposed Lot 9.02.

The existing dwelling has a building height of 31.47 feet where 30 feet is the maximum permitted height. This is an existing condition and there are no proposed changes to the existing house as it relates to building height.

Mr. Urdang noted that the board had requested the owner of the property, Al Diasparra, 150 County Road, Tenaflly, to be present at the hearing to discuss the abandonment issue. Mr. Diasparra was sworn in to give his testimony. He purchased the home which is a legal 2-family with an apartment over the garage. The home and apartment garage were not occupied at the time. There are two separate entrances in the home. There are 3 gas/electric meters in the basement.

The garage apartment is now occupied. The house is occupied by only one family at this time. Mr. Diasparra had removed the kitchen and appliances for the tenant, who wanted to occupy the whole house. The gas lines and water lines were capped off. He can bring everything back. The tenant has a year to year lease. Mr. Diasparra testified that there was never any intent to abandon the use as a 2 family home with a garage apartment. If the subdivision is not granted, the use will remain.

The meeting was opened to the public to question Mr. Diasparra. Mr. James Foxen, 147 Magnolia Avenue, had questions about the accommodation made to the tenant to change the house to a one-family. He questioned the advantage to Mr. Diasparra if he returned the house to a two-family home. There being no one else with questions for Mr. Diasparra, this portion of the meeting was closed.

The meeting was opened to the public with comments on the entire application. Those voicing their opposition to the granting of the subdivision were:

James Foxen, 147 Magnolia Avenue
Donna Foxen, 147 Magnolia Avenue

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Mr. Urdang gave his summation of the application, urging the board to approve the subdivision as presented. There was much discussion about the issue of abandonment of the property.

A motion was made by Mr. Toonkel and seconded by Mr. Marcantonio to approve the subdivision with the stipulation that there is a distance of twenty (20) feet between the homes. The roll was called. Voting YES: Mr. Tremble, Mr. Toonkel, Mr. Marcantonio and Mr. Kim. Voting NO: Mrs. Wilmit, Mr. Allen, Mr. Harrison and Mayor Rustin. There was a tie vote. The application for subdivision is not approved.

A motion was made by Mr. Allen and seconded by Mr. Tremble to charge an applicant a fee of \$500.00 to convert a Work Session to a Public Meeting. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Tremble, Mr. Toonkel, Mr. Zinna, Mr. Harrison and Mr. Greene. Voting NO: Mayor Rustin

Mrs. Lorberbaum will send a memo to the Mayor & Council with the Planning Board's recommendations for this new fee.

A motion was made by Mr. Harrison and seconded by Mr. Marcantonio to cancel the meeting of December 28, 2011, due to lack of applications. A voice vote carried the motion. All voted in favor; none were opposed.

A motion was made by Mr. Allen and seconded by Mr. Tremble to adjourn the meeting at 9:58 p.m. All voted in favor of the motion; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi
Planning Board Secretary