Approved 6/8/11

SPECIAL PUBLIC MEETING OF THE
TENAFLY PLANNING BOARD
May 11, 2011

Chairwoman Wilmit called the meeting to order at 8:10 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 Barry Honig
	Mary Beth Wilmit	Kevin Tremble
	Gus Allen	Jeffrey Toonkel
	Mark Zinna	Marc Harrison
	Steven Greene	Eugene Marcantonio
	John Kim	
Others present:	Jeffrey Zenn, Esq.	
	David Hals, P.E.	
	Dee Lorberbaum, MLUL Officer	

A motion was made by Mr. Tremble and seconded by Mr. Zinna to approve the minutes of the Regular Public Meeting of March 23, 2011. A voice vote carried the motion. All voted in favor; none were opposed.

A motion was made by Mr. Tremble and seconded by Mr. Allen to approve the minutes of the Regular Public Meeting of April 27, 2011, amended to reflect the following: Page 2, 6th Paragraph, and 3rd Sentence to read "There is a challenge to the Borough Housing Plan, which may be mitigated with this change." A voice vote carried the motion. All voted in favor; none were opposed.

A motion was made by Mr. Tremble and seconded by Mr. Greene to approve the Resolution of Approval for the Application of Grove Street at Tenafly, L.L.C, Block 1103, Lots 1, 2, 4-10, Block 1004, Lots 2 and 3, n/k/a Block 1104, Lots 1.115-1.828. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Tremble, Mr. Toonkel, Mr. Zinna, Mr. Harrison, Mr. Greene, Mr. Marcantonio and Mayor Rustin.

PUBLIC HEARING

PB#1-10-05 – Minor Subdivision
Applicant: Showl Hedvat
Block 2103, Lot 3 - 28 Elkwood Terrace

Mr. Carmine Alampi is the attorney for the applicant. Mr. Elliot Urdang is the attorney representing Saul & Jodi Scherl, property owners immediately to the north of the subject property. Board Attorney Zenn gave a brief synopsis of the application and reviewed the hearing procedures for the members of the public.

Councilman Honig noted that he, as of this evening, had not listened to all tape recordings of this application. He has reviewed all files and materials. He will; however, finish listening to the recordings prior to the next hearing, should there be one, on this application and will certify that he has done so for the record.

Board Member John Kim certified that he had listened to all tape recordings for this application and reviewed all materials. He signed a certification for the record.

Mr. Urdang disclosed that he had represented Councilman Honig in several legal matters in the past. There are no open cases at this time. Mr. Alampi had no objections with this disclosure.

Mr. Urdang called upon Mr. Maurice Rached of Maser Consulting P.A. He gave his credentials to the board. He was qualified as an expert in the field of traffic engineering. He distributed copies of his report dated December 7, 2010, entitled "Traffic Impact Study" to all board members.

Mr. Urdang marked and entered this into the record as:

- Exhibit O-2, 5/11/11, Traffic Impact Study for 28 Elkwood Terrace, Residential Subdivision, dated December 7, 2010, prepared for Mr. Saul Scherl

Mr. Alampi voiced his concern that he was presented with this report tonight, given that the study was done in December of last year. He commented that he does not have ample time for reviewing the document and may ask that the hearing be carried in order for him to prepare properly. Mrs. Wilmit and board members voiced their concerns with the late submission this evening as well.

Mr. Urdang marked and entered into the record another exhibit as follows:

- Exhibit O-3, 5/11/11, Intersection Sight Distance

Mr. Rached reviewed his report as noted above with the board members. He reviewed the table in his report on page 661 and testified that the driveway on the property located at Lot 3.02 does not have proper sight distance of 280 feet, according to the table. He reviewed Exhibit O-3 and explained that vegetation and a house on the adjacent property block sight to the driveway. This is Mr. Scherl's property. Mr. Rached noted that Mr. Scherl had met with Public Works Director Bob Beutel and removed vegetation as directed by Mr. Beutel which encroached into the Borough right-of-way. He commented that Mr. Scherl did as Mr. Beutel suggested.

Mr. Alampi questioned Mr. Rached at length regarding the adjacent property and his conversation with Mr. Beutel which Mr. Alampi classified as hearsay. Mr. Alampi cannot question Mr. Beutel regarding this matter. He further questions Mr. Rached regarding N.J.S.A. 27:7-90, New Jersey Statutes Annotated, Title 27, Highways…specifically section e. as follows: "Every owner of property which abuts a public road has a right of reasonable access to the general system of streets and highways in the State, but not to a particular means of access." Mr. Rached countered that the statute further reads "The right of access is subject to regulation for the purpose of protecting the public health, safety and welfare." It is his opinion that the driveway is unsafe. Mr. Urdang vehemently objected to Mr. Alampi's questioning of his witness.

Mr. Alampi questioned Mr. Rached about the neighboring driveways and the speed limit on the street. Mr. Rached noted that there is no relevance with regard to this application. The sight distance is insufficient. Title 27 was again brought up regarding right of reasonable access. The engineer testified that if the driveway is unsafe, the application should be denied. Mr. Alampi wants time to review this report in further detail and reserves the right to cross examine Mr. Rached at another time.

Board members voiced their concerns regarding traffic flow, the number of trips per hour anticipated for the street, stopping vs. intersection sight distance, and the permit that was issued for the driveway. Mr. David Hals, Planning Board Engineer, who had been sworn in previously, noted that a zoning review would have been done for the driveway, which was being constructed in conjunction with the construction of a swimming pool. This being an existing piece of property, RSIS would not apply. The pool has not been built. Mr. Alampi will provide a copy of his client's building file to board members for review.

The meeting was open to the public to question Mr. Rached on his testimony this evening. There being no one from the public with questions for him, this portion of the meeting was closed to the public.

The board took a brief recess. The board returned to continue the application.

Mr. Saul Scherl, 12 Mayflower Drive, was sworn in to give his testimony. He is the owner of the adjacent property, which he purchased in 1998. He recapped the changes to Mr. Hedvat's property since the last application had been presented then withdrawn in 2005. He testified that he believed that Mr. Hedvat received a permit for the pool and the removal of trees. He further commented that Mr. Hedvat had installed the driveway, flattened the yard with bobcats, installed boulders along the property line wall and began to eliminate the berm shared by both owners. He had taken before and after photographs of the property…showing his and Mr. Hedvat's property in 2005 and now.

Mr. Urdang marked and entered into the record another exhibit as follows:

- Exhibit O-4, 5/11/11, Set of Twenty-four (24) photos of 28 Elkwood Terrace and 12 Mayflower Drive taken by Mr. Saul Scherl.

Mr. Scherl explained all the photos to the board members. He noted that he had met with Mr. Beutel as previously explained by Mr. Rached; and had removed vegetation as directed. He commented that Mr. Beutel was satisfied that he had completed all work requested by him. There are no trees left on the rear part of the property. Small bushes have been planted along the property line; however, with all that was done to the adjacent property, Mr. Scherl commented that soil erosion has resulted in soil and water draining from Mr. Hedvat's property into his pool and shed. Mr. Alampi explained that he has not had the opportunity to review these photos as they relate to the site plan. He reserves the right to question Mr. Scherl at the next hearing about these photos.

Mr. Hals noted that once a permit is issued, construction must commence within one (1) year; however, the project doesn't necessarily have to be completed in that timeframe.

Councilman Honig asked if Mr. Scherl had brought his issues regarding tree removal and the driveway to the attention of Borough officials. Mr. Scherl noted that he never looked for a permit and was told it would not be closed by Borough officials. He did not follow up on the matter assuming that the Borough would continue to monitor construction progress. It was noted that there is a tree ordinance and monies should have been posted in escrow.

There was much discussion regarding the steep slopes which appeared on the 2005 site plan submitted and which do not appear on the site plan submitted with this application. Mr. Alampi argued that his professionals disagreed with the previous engineer in the calculations for steep slopes on the property. He commented that it doesn't matter that the trees are gone or the steep slopes are gone because the board is reviewing the materials submitted with this application. The tree removal and driveway permit are separate code enforcement issues. Mr. Urdang disagreed with Mr. Alampi on this matter.

Mr. Hals was directed to review all Borough files for this application, including the tree permit application file, building department permit file and the previous application filed in 2005 by the applicant.

Councilman Honig would like to see Public Works Director Bob Beutel in attendance at the next hearing regarding the removal of vegetation at 12 Mayflower Drive. He will be asked to attend.

The board looked at the upcoming schedule for planning board meetings. It was suggested that the board open the Work Session on June 8, 2011, at 7:30 p.m. and convert the rest of the Work Session to a Special Public Meeting at 8:00 p.m. Councilman Honig noted that June 8th was a Jewish holiday. The consensus of the board members was to schedule the continued application hearing for Showl Hedvat, 28 Elkwood Terrace, Block 2103, Lot 3, on Wednesday, June 8, 2011, at 8:00 p.m. No further notification is required.

A motion was made by Mr. Greene and seconded by Mr. Zinna to amend the annual meeting schedule to reflect that the June 8, 2011, Work Session will commence at 7:30 p.m. The remainder of the meeting will be converted to a Special Public Meeting at 8:00 p.m. A voice vote carried the motion with Councilman Honig casting a NO vote.

A motion was made by Mr. Allen and seconded by Mr. Zinna to adjourn the meeting at 10:45 p.m. A voice vote carried the motion. All were in favor; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi
Planning Board Secretary