

**PUBLIC MEETING OF THE
TENAFLY PLANNING BOARD
MARCH 23, 2011
MINUTES**

Chairperson Wilmit called the meeting to order at 8:09 P.M.

The announcement was made regarding compliance with the Sunshine Law.

The secretary was absent and the MLUL Officer was asked to call the roll as acting secretary:

Voting members present:	Mayor Rustin	Councilman Barry Honig
	Mary Beth Wilmit	Kevin Tremble
	Jeffrey Toonkel	Marc Harrison
	Mark Zinna	Eugene Marcantonio
	John Kim	

Board members absent:	Gus Allen	Steven Greene
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Others present:	Jeffrey Zenn, Esq.
	David Hals, Board Engineer
	Dee Lorberbaum, MLUL Officer

OTHER MATTERS BEFORE THE BOARD FOR ACTION TO BE TAKEN

1. Appointment of Board Engineer
 - a. Resolutions
 - b. Execution of Professional Service Contract

Mr. Toonkel offered the resolution to appoint David Hals of the firm Schwanewede/Hals Engineering Company as Board Engineer and to award the position of Board Engineer through a non-competitive process; seconded by Mr. Zinna. The roll was called and the motion carried. Voting YES: Ms. Wilmit, Mr. Tremble, Mr. Toonkel, Mr. Zinna, Mr. Harrison, Mayor Rustin, Mr. Marcantonio and Mr. Kim Voting NO: Councilman Honig

2. **PB#1-11-01- Site Plan Waiver** - Block 1305, Lot 1- 29 Atwood Avenue
Applicant: Paul Keyes Associates

A memorializing resolution of approval with conditions for a site plan waiver for Paul Keyes Associates to use five parking spaces located at 29 Atwood Avenue for parking of its vehicles across the street from 111 North Summit Street was offered by Mr. Toonkel and seconded by Mr. Zinna and carried with the following roll call vote:

For: Ms. Wilmit, Mr. Toonkel, Mr. Tremble, Mr. Harrison, Mr. Zinna, Mr. Marcantonio,
and Mayor Rustin

Against: None

Approved 5/11/11

CORRESPONDENCE

1. Letter from Lisa Giordano dated March 14, 2011 regarding Downey Drive Sidewalk Improvement Plan

Attorney Zenn commented that the subject matter is not within the purview of the Planning Board. Board members agreed this letter should be directed to the Mayor and Council. Mrs. Lorberbaum was asked to respond to Ms. Giordano.

CONTINUING APPLICATIONS BEFORE THE BOARD

1. **PB#1-10-05 – Minor Subdivision-** Block 2103, Lot 3 - 28 Elkwood Terrace

Applicant: Schowl Hedvat

Attorney Zenn reported that the Hedvat application will not be heard this evening it will be carried to April 13, 2011 at 8:00 P.M. in the Council Chambers.

A motion was made by Mr. Zinna and seconded by Mayor Rustin to open the work session of April 13, 2011 at 7:30 P.M. and to convert a portion of that work session to a special public meeting at 8:00 P.M. The motion was carried with a voice vote. All were in favor; none were opposed.

Chairwoman Wilmit instructed Ms. Lorberbaum to notice the work session for 7:30 P.M. and to convert the work session to a special public meeting at 8:00 P.M. for the continuation of this hearing.

Mayor Rustin reported on the Dean Drive application located at 123 Dean Drive which is on the Board of Adjustment's agenda for a use variance. He wanted to keep the Planning Board informed regarding this application as it is part of the Housing Element and Fair Share Plan submitted to COAH as part of our 3rd Round. He asked the Board Engineer if he was familiar with what is happening on the application.

Mr. Hals reported the applicant has changed the design of the building. Before there was only parking in the back and now the parking is underneath the building. It's a four story building with the first floor just being parking. The variances they are looking for is a reduced drive-way width and parking variance.

APPLICATIONS DEEMED INCOMPLETE

1. **PB#1-11-02 – Site Plan/Variance-** Block 1010, Lot 4 – 16 West Railroad Avenue

Applicant: Dimitri Konotolies – Tenaflly Sidewalk Platform

Revised Plans in accordance with the Borough Engineer's review letter dated January 7, 2011 were received March 30, 2011 and sent to the Borough Engineer to advise if the application is complete.

NEW APPLICATIONS DEEMED COMPLETE (Scheduled for this Evening)

1. **PB#1-11-04 – INFORMAL REVIEW**

Block 1005, Lot 14

Applicant: 25 Highwood Avenue Realty, LLC

- a. Scheduled for this evening

Attorney Zenn noted that even though this is referred to as an application, no application has been filed. This informal is a way that the municipal land use law provides the applicant with a better way to prepare the actual plan.

Approved 5/11/11

Frank Finocchiaro of One Source Energy Solutions, 74 Ethel Avenue, Hawthorne, NJ came forward and presented the concept plan for 25 Highwood Avenue. The owner proposes to install an elevated solar array in the back parking lot which would cover the entire parking lot. The elevated panels would allow for delivery trucks because the panels would be situated above the parking area. The top of the array is 17' and the actual passage for vehicles is 14'. Solar requires a fair amount of area in order to produce energy. The roof of the building is already crowded with equipment which would cast shadows; the parking lot is a much better area for the installation. The landscaping and lighting to be provided for the parking lot was described. The parking lot will be resurfaced and as far as Mr. Finocchiaro knew the parking lot was not shared with any other businesses. The plan has already been approved by the State but it is necessary to come in for Planning Board approval in order to get a permit to build.

The Board and Mr. Finocchiaro discussed where some other solar projects were located in the State.

The consensus of the Board was this concept plan is feasible and Mr. Finocchiaro was advised to come back with a full site plan application.

2. PB#1-11-06 Site Plan Waiver-Block 1011, Lot 19-4 ½ West Railroad Avenue

Applicant: Gabriel Aivazov

Gabriel Aivazov of 44 Cortland Place, Tenafly, NJ, the prospective tenant, of 4 ½ West Railroad Avenue came forward to present this site plan waiver. The applicant proposes to operate a retail store selling active wear, swimwear, shoes and related products which is a change of use from the prior operation of the Premises which was a coffee shop. Plans prepared by Chris Blake Architect dated March 22, 2011 had been submitted. The Zoning Officer was away and had not reviewed the plans nor had the Borough Engineer due to the fact they were just received the day before this meeting.

Mr. Aivazov stated there would be one full-time employee (himself) and the possibility of a part-time employee in the summer. He further testified that the coffee shop's equipment had been removed, the shop is empty and he plans to paint the walls, put in new flooring and new lighting. There will be no change to the façade of the building.

Attorney Zenn stated a motion to approve this resolution could be made with the following conditions. The applicant is to 1) to apply for employee parking permits for all of its employees, 2) file for zoning and building permits, 3) the approval is conditioned upon the applicant obtaining all other necessary governmental permits and approvals, 4) the applicant shall comply with all applicable Borough ordinances including the Borough's development fee ordinance and 5) this application shall be subject to any additional review or comment by the Zoning Officer and/or Borough Engineer. The application is specifically subject to any comments and conditions they may have.

Mayor Rustin made a motion to approve this application with the conditions stated by the Board Attorney; seconded by Mr. Tremble and carried with the following roll call vote:

For: Ms. Wilmit, Mr. Tremble, Mr. Toonkel, Mr. Zinna, Mr. Harrison, Mr. Marcantonio, Mr. Kim, Councilman Honig and Mayor Rustin.

Against: None

Approved 5/11/11

PUBLIC HEARINGS SCHEDULED FOR THIS EVENING

1. **PB#1-03-06A (Amendment)** - Block 1104, Lot 2 7 3 and Block 1103, Lot 1, 2 & 4-10

Applicant: Grove Street at Tenafly, LLC-Conversion of Affordable Sales to Rental

Attorney Zenn noted the applicant has complied with the statute for proof of publication and notification.

Richard A. Hubschman, Jr. came forward and announced he is the attorney appearing on behalf of Grove Street at Tenafly, LLC commonly known as “The Crossings” located on the Grove Street parcel of land. The property has been constructed and as part of the 2004 approval there were nine affordable housing units designated. At that time it was anticipated the nine units would be sold to low and moderate income candidates. Since completing the construction, only four of those units have sold. The recent decline in the real estate market has made it extremely difficult to get qualified candidates that can obtain a mortgage. The Bergen County Housing Authority has been sending candidates and there have been numerous contracts which failed for their inability to obtain a mortgage. The applicant is requesting this Board to amend their resolution to allow renting of the remaining units according to whatever COAH and the BCHA determines as the guidelines. The restrictions would stay in place and everything else would remain the same. The project is substantially complete at this time, the units are already designated. This request was sent to your Planner, Joe Burgis, quite some time ago and he provided a letter dated February 4, 2011. The decision as to sale or rent the unit however is up to the town and Mr. Burgis correctly pointed that out. As verbal approval via discussions with the Housing Authority and COAH has been obtained if the town approves this they would allow it. That is the sum substance of our request.

Cathleen Costa the real estate agent for the development was present to testify about the condition of sales, etc

Attorney Zenn swore in Ms. Costa. She testified that she is the real estate broker engaged to sell the units including the affordable units for this development. She deals with the Bergen County Housing Authority on a regular basis. She has presented contracts to purchase the affordable units to the seller. She noted there has been significant difficulty and a number of contracts have failed for the lack of ability to obtain financing.

Councilman Honig asked Ms. Costa if she could tell the Board the price range of these units, the economic qualifications for someone to purchase and are these one, two or three bedrooms?

Ms. Costa answered, one, two and three bedrooms are remaining and as far as the price, that is given to her by the applicant. We don't set a price; I don't really know the price until I see what category that person may fall into.

Councilman Honig asked if the price varies according to economic eligibility.

Ms. Costa answered correct.

Councilman Honig asked questions regarding the income level in order to qualify for affordable, how much of a down payment is required and what will these units rent for.

Approved 5/11/11

Ms. Costa answered I don't get that information at all; that is criteria set by COAH and depends on the applicant and what they qualify for.

Ms. Costa stated she has only been involved in sales of affordable units; however, she knows people in COAH's rental division and knows until the applicant qualifies and is certified they are not given a rental amount. Once this happens the applicant is then told what they are going to pay and then the owner is told what they are going to get.

Further discussion took place on COAH regulations.

Mr. Harrison asked how the other units are doing.

Ms. Costa answered they are all sold.

Mr. Honig asked are you convinced that you are more than likely going to get more qualified renters than qualified buyers.

Ms. Costa, answered I'm more than convinced.

Mr. Zinna asked who is actually the landlord of these units.

Mr. Hubschman answered it will continue to be the developer as the owner of only those five units.

Chairperson Wilmit asked if there were questions from the public.

Nicole Griffin came forward and stated she had bought one of these condos under the moderate income list and it was chaotic getting in to it. She felt to have the remaining units rented out and especially through the Bergen County Housing Authority; you don't know who they're getting to move into these places. She noted a full background check is not done.

Attorney Zenn noted that when you have leases the applicant has to state who will be living there and good management should be watching their property. These renters would be subject to eviction.

Chairperson Wilmit noted our COAH Planner has told us there is a risk if these units are put back to market units that we may not meet our obligation.

Councilman Honig commented why we don't hold off voting on this until we hear from the State so we're operating with complete information.

Mayor Rustin commented there is no one closer connected to the process than Joe Burgis and the impression I got from him was this renting is going to happen whether we approve it tonight or not. The only other option we have is to continue the hearing. You are not going to get any information from the State but if you want further clarification from Joe Burgis we could have him at the next hearing of this application.

The town's Third Round of COAH is being mitigated and discussion took place regarding this matter. and how amending the resolution from sales to rentals for the remaining five units would affect this mitigation.

Approved 5/11/11

Mr. Toonkel commented he couldn't see waiting six months or so to hear from the State when they are trying to get rid of the whole department. This could go on and on and on.

Councilman Honig stated he just did not see the immediacy.

Chairperson Wilmit noted there was another question from the public and asked the lady to come up and state her name.

Sharda Mahader, 4 Cobblestone Street, Tenafly, NJ, owner of one of the affordable units, came forward and asked are renters going to have to assume charges like we pay such as carrying charges, taxes. etc.

Mr. Hubschman answered no the landlord will pick those up.

Ms. Mahader inquired about the parking spaces.

Mr. Hubschman answered all the parking is laid out in the Master Deed as to who gets a garage, who gets a parking space, everything is spelled out.

Mr. Hubschman stated the only thing he would submit is they could possibly open up these units to younger people such as recent college graduates, new employees, persons that otherwise would not qualify for mortgages. There is some good sides to this. It may open it up to younger people whom may be eligible and I'm sure it will be to Tenafly residents.

Mayor Rustin stated the sense he got from Joe Burgis, whom he considers to be an expert in this area, is that we really don't have a choice because if we deny it; it will only be overturned at another level. If you are convinced that is the case, I would suggest we continue this hearing and get a further opinion from Joe before the next meeting.

Mr. Yong of Hemlock Lane came forward and stated he bought three units at "The Crossings". He lives in one and rents the other two. He wondered if units other than the market rate units did not meet the 50% requirement of sales if it would affect him.

Chairperson Wilmit explained for him that was not a problem because more than 50% of the market rate units have already been sold and there were only five units remaining. She noted the discussion for allowing those units to convert to rentals was what was being discussed.

Each Board member spoke stating their position on this amendment. The consensus of the Board was to continue the hearing and have Mr. Burgis testify before the Board.

Chairperson Wilmit stated in addition to contacting Joe Burgis she would also like to contact Stuart Koenig, Special COAH Attorney for the Borough.

Mr. Hubschman consented to continue this hearing to April 27, 2011.

2. PB#1-11-03 – Site Plan/Variance

Block 1012, Lots 4, 5, 6 and 8 – 7, 11

15-17 Hillside Avenue; 4 Highwood Avenue

Approved 5/11/11

Applicant: ARI Realty LLC

Tom O'Connor, attorney for ARI Realty, LLC came forward and presented proof in the form of an affidavit that complied with the statutory requirements of publication and service of notice of the application and the public hearing to be held on the application. The application is for a site plan approval of eleven (11) rear yard parking spaces at the Property to be accessed via an access/egress easement on Block 1012, Lot 2. This application is piggybacking on an application that was approved last year for County Tiger, LLC. Attached to the approved resolution for County Tiger was a copy of the Easement Agreement for the access as well as a concept of the layout of the parking spaces. He submitted a copy of the resolution for PB#1-09-09 County Tiger, LLC with the attached Easement Deed with a sketch of the proposed parking lot which was marked as **Exhibit A-1**. The Applicant requests a variance from the minimum parking requirement in connection with its site plan application.

Attorney O'Connor called Douglas Doolittle, a licensed professional engineer and planner in the State of New Jersey to describe the site plan.

Mr. Dolittle described the site plan, the existing conditions and the proposed conditions. The proposed plan would construct a parking lot for 11 cars in the rear of the existing building that front on Hillside Avenue and Highwood Avenue. The parking lot would be accessed through the recently approved County Tiger (Tenaflly Market, Seven-Eleven) site at the corner of Jay Street and County Road. The four properties currently have no on-site parking. The parking required for the four sites combined is 52 spaces. The variances needed would fall under the flexible c (2) variance because this provides a better planning opportunity for the Borough of Tenaflly.

The following variance and waivers are required:

- a. Rear Yard Coverage – 25% Maximum – 100% Proposed
- b. Parking/Driveway setback – 3 ‘ Required, O’ Provided
- c. Parking Space Size – 9.5’ x 18’ Required, 9.0’ x 18’ Proposed
- d. Parking Aisle Width - 25’ Required; 18’ Proposed

The proposed development will require the movement of a certain amount of soil for drainage and parking improvements but is not expected to be a major soil moving permit application.

Chairperson Wilmit opened the hearing to the public for questions and statements. There was no one from the audience to ask questions or make comments. The hearing was closed.

A motion was made by Mr. Tremble and seconded by Mr. Harrison to grant preliminary and final site plan approval of this application with the following conditions:

- (i) Site lighting shall be shown on the plan and may need to be adjusted or increased particularly on Lot 8 as may be directed by the Board Engineer.
- (ii) The access agreement over the County Tiger property shall be submitted to The Planning Board’s attorney for review and approval.
- (iii) The parking area shall have appropriate signage limiting the parking for Employees only. This shall be subject to the review and approval of the Board Engineer

The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Toonkel, Mr. Tremble, Mr. Zinna, Mr. Greene, Mr. Harrison, Mr. Marcantonio, Councilman Honig and Mayor Rustin.

Approved 5/11/11

There were no comments for agenda or non- agenda items.

Mr. Toonkel made a motion to adjourn the meeting at 10:32 p.m.; the motion was seconded by Mr. Zinna and so carried.

Respectfully submitted,

Dee Lorberbaum,
Acting Secretary