

Approved 9/15/10

**SPECIAL PUBLIC MEETING OF THE
TENAFLY PLANNING BOARD
August 11, 2010**

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:	Mayor Rustin	Councilman Jon Warmes
	Mary Beth Wilmit	Marc Harrison
	Gus Allen	Jeffrey Toonkel
	Mark Zinna	Steven Greene
	Gene Marcantonio	

Voting members absent:	Kevin Tremble	Eugene Cho
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Others present:	Jeffrey Zenn, Esq.
	David Hals, P.E.
	Frank Mottola, Zoning Officer
	Dee Lorberbaum, MLUL Officer

A motion was made by Mr. Zinna and seconded by Councilman Warmes to approve the minutes of the Regular Public Meeting of July 28, 2010. All voted in favor of the motion; none were opposed.

PUBLIC HEARING

PB#1-10-12 – Major Soil Movement Application

Applicant: Josh Epstein
35 Sunderland Road, Block 2805, Lot 3

Planning Board Attorney Jeffrey Zenn recused himself from hearing this application as there is a conflict.

Mr. Josh Epstein is the owner of the property. Mr. Matthew Neuls is the engineer. He gave his credentials to the board and was accepted as an expert in the field of engineering. Attorney Zenn noted that all documentation is in order for this application to proceed with the hearing this evening.

The following exhibit was marked and entered into the record:

- Exhibit A-1, 8/11/10, Colorized Version of Drawing 2640-1, last revised 7/26/10, Site Plan

Mr. Neuls described the proposed improvements to the property and the drainage plan. The property is located on the southeasterly side of Sunderland Road and is in the R-40 zone district. The site is approximately 250 feet wide and 170 feet deep and contains approximately 41,770 square feet. The property rises from Sunderland Road toward the rear of the property. The

property is generally sloped at a 10% to 13% grade. The subject property abuts the Tenafly Lost Brook Preserve. A stream is located on the northeasterly portion of the property which originates from the Lost Brook Preserve.

The site contains an existing dwelling and driveway which are proposed to be removed. The applicant proposes to move 1,785 cubic yards of soil for the construction of a new house, swimming pool, retaining walls and site grading. The proposed dwelling location and coverage are in accordance with the zone district requirements. Due to the extensive regrading of the property, installation of retaining walls and the potential impacts to the stream on the property, this application is a major soil moving application.

The existing stream on the property is not identified as a Category One stream by the Borough's Stormwater Management Ordinance and is not subject to the near stream development restrictions. It was noted that a Tree Removal Permit has been granted for the property. Approximately 28,000 sq. ft. or 67% of the site is to be disturbed by the construction. Retaining walls are proposed along the southwesterly side of the property to transition the grading from the house and pool area to the natural ground surface.

No water will be directed toward the Lost Brook Preserve. There is a minimized disturbance by building the new dwelling where the existing structure is presently located. Roof runoff and driveway runoff will be collected and piped to underground seepage pits. Six 1,000 gallon seepage pits are proposed. The pits are sized to collect the volume of a 3-in rainfall from the roof and driveways. An overflow drain is provided from the seepage pits to the storm drainage system in Sunderland Road. The site is graded to direct stormwater from the rear pool area towards drainage inlets. The inlets will collect the stormwater and pipe it to the seepage pits located in the front yard.

Mr. Neuls advised the board that the applicant will comply with all recommendations in the letter dated August 4, 2010, from Borough Engineer David Hals.

There was some concern from board members regarding the tree removal for the project. Plans don't presently show replacement trees. Mr. Josh Epstein, owner of the property, was sworn in and gave his testimony. He will comply with the Borough ordinance and replace trees as directed. He noted that the trees in front of the property will be saved. Revised plans will be submitted.

There was board concern regarding the number of trucks going to and from the site moving soil. The applicant will assure that no more than 2 trucks on are the site at any given time.

The meeting was opened to the public. Mr. Seth Zukoff, 44 Sunderland Road, questioned Mr. Neuls about the water runoff from the property. The meeting was closed to the public.

Mr. Hals testified regarding the drainage problems on neighboring streets. He noted that the drainage plans submitted for this site are satisfactory.

A motion was made by Councilman Warms and seconded by Mr. Allen to approve this application with all applicable stipulations as well as the following stipulations as outlined in the resolution:

- A. The applicant will file revised plans with the Borough Engineer and the Building Department in accordance with the applicant's testimony this evening and as set forth in the Borough Engineer's letter report of August 4, 2010;
- B. The applicant shall comply with all applicable laws and regulations regarding the development of the subject premises;
- C. The applicant shall comply with the recommendations and comments set forth in the Borough Engineer's letter of August 4, 2010, including, but not limited to, the following:
 - i. Surface swale to be provided along the southwesterly property line, on top of the retaining walls, to intercept and direct the off-site stormwater that is flowing onto the property towards Sunderland Road;
 - ii. A surface swale must be provided along the rear property line to intercept and direct the off-site stormwater that is flowing onto the property from the Tenafly Lost Brook Preserve towards the stream;
 - iii. Proposed soil erosion controls measures must be labeled on Sheet 2 of the plans;
 - iv. A double row of sediment fence must be provided along the limit of disturbance on the stream side of the construction.
- D. The applicant shall comply with the following specific conditions:
 - i. Plans to be revised to be consistent with the Tree Removal Permit issued in this matter, subject to the satisfactory review of the Borough Engineer;
 - ii. No more than two (2) large trucks shall be permitted at the property at any one time for purposes of soil moving;
 - iii. Plans are to revised in accordance with Item C. above.

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

PB#1-10-05 – Minor Subdivision

Applicant: Showl Hedvat
28 Elkwood Terrace, Block 2103, Lot 3

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 reviewed the hearing procedures for the members of the public. It was noted that all documentation is in order for the application to be heard this evening. This application was originally scheduled for July 28, 2010; however, was carried to this evening to accommodate Mr. Urdang's schedule.

Mr. Alampi proceeded with his testimony reviewing the application. It was noted that there had been a prior application and hearing on this property several years ago, which was withdrawn. Mr. Alampi noted that Mr. Hedvat retained him to present this evening's application after the

discovery of possible errors by the professionals who presented at the last, withdrawn hearing. Mr. Alampi maintains that the prior survey was incorrect and that the survey that will be presented this evening correctly identifies the property lines.

Mr. Steven Koestner is the engineer for the applicant. He was sworn in and gave his credentials to the board. He was accepted as an expert witness in the field of engineering. Mr. Urdang did not object. Borough Engineer David Hals' in a letter dated June 7, 2010 noted "Mr. Koestner has determined that the subdivision that created Mayflower Drive in 1962 was incorrectly laid out by that surveyor. This created an overlap of the Mayflower Drive right-of-way with the rear of the property at 28 Elkwood Drive. This overlap creates a frontage along Mayflower Drive of 66.69', where 41.69' was listed in the 2003 application." Further, "There appears to be a discrepancy in the location of the property between Mr. Koestner and the 2003 surveyor, Hubschman Engineering. The Planning Board does not have the authority to determine which surveyor is correct. Since the subdivision maps and tax map show Mayflower Drive being 50' wide, it is my opening that the applicant should request a frontage variance for Proposed Lot 3.02." Messrs. Alampi and Koestner disagree with Mr. Hals on this issue and will present their evidence for the board.

The following exhibits were marked and entered into the record:

- Exhibit A-1, 8/11/10, Entitled Minor Subdivision dated 11/16/09
- Exhibit A-2, 8/11/10, Entitled Minor Subdivision last revised 5/25/10

Mr. Koestner reviewed the above plans with the board members outlining the steep slope areas and erosion control measures. He noted that filed maps and deeds would supersede the assessor's maps. He testified that he had done a topographical analysis and surveyed the site. He reviewed the all prior plans which had been submitted. He advised the board that there is no variance for street frontage.

Several more exhibits were marked and entered into the record:

- Exhibit A-3, 8/11/10, Survey prepared by Koestner dated 11/16/09
- Exhibit A-4, 8/11/10, Detailed Enlargement of Street Frontage on Mayflower dated 3/1/10
- Exhibit A-5, 8/11/10, Detailed Enlargement of Street Frontage dated 8/9/10

It was noted that board members were not supplied with copies of these exhibits. The exhibits are extremely difficult to see. The applicant will submit copies to the board prior to the next hearing. Mr. Alampi commented that the Tenafly tax maps are incorrect and the frontage on the applicant's property is 66.69'. There was much discussion on the Borough right-of-way on Mayflower Drive.

The board took a brief recess to permit the applicant to use markers to make the above exhibits easier for board members to see from the dais.

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The meeting was called back to order at 10:00 p.m. Mr. Urdang commented that the Planning Board had no jurisdiction to decide on the issue of two different surveys. He suggested that a third survey be done by the Borough Engineer. He also took issue with the notice that was published by the applicant with wording covering the approval of any subsequent variances as may be necessary. Mr. Alampi disagreed with Mr. Urdang. Planning Board attorney advised the Planning Board that Mr. Alampi could proceed with the application this evening. Mr. Koestner reviewed the above exhibits with the board.

Borough Attorney David Hals was sworn in to give his testimony, if needed.

Several more exhibits were marked and entered into the record:

- Exhibit A-6, 8/11/10, Filed Map #4307, filed by Bergen County Clerk on 6/18/52
- Exhibit A-7, 8/11/10, Filed Map #5789, filed by Bergen County Clerk on 1/23/62

The board members do not have copies of these exhibits either. The applicant will supply copies for board members prior to the next meeting.

The meeting was opened to the public to question Mr. Koestner. Voicing his concern regarding the right-of-way and frontage issue was Robert Rudin, 35 Mayflower Drive. There being no further questions from the public for this witness, this portion of the meeting was closed.

Borough Engineer questioned Mr. Koestner on his survey findings, noting the location of a monument that Mr. Koestner used to base his survey measurements upon. Mr. Hals suggested that perhaps the monument was included with the nearby subdivision properties and not the subject property. It was noted that this monument was not found by the prior surveyor.

The application hearing for Showl Hedvat, 28 Elkwood Terrace, Block 2103, Lot 3, will be continued to Wednesday, September 15, 2010, at 8:00 p.m. The board will commence with its Work Session at 7:30 p.m. that evening. No further notification is required.

PRESENTATION

Borough Engineer David Hals gave a brief, informal presentation on the Tenaflly Police Headquarters project. A motion was made by Mr. Toonkel and seconded by Mr. Allen that Mrs. Lorberbaum forward a memo to the Mayor & Council noting that the Planning Board has reviewed the plans as presented by Mr. Hals this evening, and find that the construction is consistent with the Master Plan.

A motion was made by Mr. Allen and seconded by Councilman Warms to adjourn the meeting at 11:08 p.m. A voice vote carried the motion. All were in favor; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi, Planning Board Secretary