

Approved 11/10/10

**SPECIAL PUBLIC MEETING OF THE
TENAFLY PLANNING BOARD
October 13, 2010**

Chairwoman 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:

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|-------------------------|------------------|----------------------|
| Voting members present: | Mayor Rustin | Councilman Jon Warms |
| | Mary Beth Wilmit | Jeffrey Toonkel |
| | Gus Allen | Eugene Cho |
| | Mark Zinna | Marc Harrison |
| | Steven Greene | Eugene Marcantonio |

Voting members absent: Kevin Tremble

Others present: Jeffrey Zenn, Esq.
Arthur Lorenz, P.E. (until 9:40 p.m.)
David Hals, P.E. (after 9:40 p.m.)
Frank Mottola, Zoning Officer

A motion was made by Councilman Warms and seconded by Mr. Zinna to approve the minutes of the Special Public Meeting of September 15, 2010, and the Regular Public Meeting of September 22, 2010. A voice vote carried the motion. All voted in favor; none were opposed. It was noted that a slight correction will be made to the Notes of the Work Session for September 15, 2010.

A motion was made by Mr. Allen and seconded by Mr. Cho to approve the Resolution of Approval for the Application of Café Savoy, Block 1012, Lot 1, 10 Jay Street. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Toonkel, Mr. Cho, Mr. Zinna, Mr. Marcantonio, Councilman Warms and Mayor Rustin.

A motion was made by Mr. Zinna and seconded by Mr. Allen to approve the Resolution of Approval for the Application of Joseph Gartner, Block 1011, Lot 12, 15 West Railroad Avenue. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Toonkel, Mr. Cho, Mr. Zinna, Mr. Marcantonio, Councilman Warms and Mayor Rustin.

A motion was made by Mr. Cho and seconded by Mr. Zinna to approve the Resolution of Approval for the Application of Dr. Kevin Song, Block 1005, Lot 2, 16 Central Avenue. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Toonkel, Mr. Cho, Mr. Zinna, Mr. Marcantonio, Councilman Warms and Mayor Rustin.

PUBLIC HEARING

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

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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. Planning Board Attorney Zenn reviewed the hearing procedures for the members of the public. Mr. Alampi advised the board that he would be presenting a traffic engineer as a witness this evening. Mr. Urdang noted that he would begin this evening with his cross examination of Mr. Steven Koestner, the engineer for the applicant.

Mr. Urdang questioned Mr. Koestner about his finding of the stone monument. Exhibit A-2, previously submitted, was reviewed again. Mr. Urdang pointed out that on the exhibit there are two notations to Deeds and Filed Maps..."366.23' – Deed + F.M.# 4307" and "363.53' – F.M #'s 5788, 5849" Also reviewed were Exhibits O-1, D-2, D-3, A-9, D-1, A-8, A-7, A-6. There was much discussion regarding the stone monument, the measuring point of beginning on the various exhibits, the meets and bounds descriptions in the deeds, area before Mayflower Drive was established, area after Mayflower Drive was established. Mr. Koestner advised Mr. Alampi that the stone monument was his point of beginning. Both attorneys argued their positions to the board.

Mr. Art Lorenz, engineer for the Planning Board, was sworn in to give his testimony. He advised the board that after the last meeting was adjourned he spoke with Mr. Simon, a resident who lives north of the Hedvat property, who had testified that evening about his having a survey done on his property. He noted that the corners of his property were marked with pipes and orange caps. He indicated to Mr. Lorenz that the pipe with orange cap was located at the northwest corner, where the stone monument is located pursuant to Mr. Koestner's testimony.

Mr. Robert Simon, 2 Mayflower Drive, was sworn in at this time to give his testimony. He advised the board that there is no reference to a stone monument in his survey. His property has been surveyed twice recently as he built a wall between his property and the subject property.

Board members questioned Mr. Koestner who testified that he found the monument by using a shovel and rod to unearth the stone monument, which was an inch below the surface. He testified that he knew it was a stone monument by the sound it made when discovered...a thud as opposed to a hollow sound which would have been heard had he hit a stone or rock. Mr. Koestner noted that he believes that the 6" square stone monument has a cross on it. He does not know what material it is made from. Board members voiced their concerns that previous surveyors had not found the monument before.

Mr. Urdang argued that this application should not have been brought to this board without first having the property issue settled. Mr. Alampi noted that this is a private property issue; the board has no power to set property lines and can act on what is presented to them this evening. Board members were very concerned that a title search did not pick up the property line discrepancy.

Mr. Urdang noted that the monument was unearthed by a field crew, not Mr. Koestner himself. Mr. Koestner testified that this statement was correct.

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The board took a brief recess and reconvened at 10:05 pm. Mr. David Hals, Engineer for the Planning Board, arrived at the meeting and was sworn in.

Mr. Alampi called Mr. Hal Simoff to give his testimony. He gave his credentials to the board and was qualified as an expert in the field of transportation engineering. The following exhibit was marked and entered into the record:

- Exhibit A-10, 10/13/10, Sight Distance Study, Mayflower Drive, Simoff Engineering Associates, dated 10/13/10

Board members were given a copy of the report. Mr. Simoff testified that he was retained to perform a sight distance study for the applicant. He reviewed his report findings with the board. He testified that a neighbor had planted landscaping within the Borough right-of-way, which should be removed in accordance with Borough ordinances. Also landscape lighting within the Borough right-of-way should also be removed. He noted that there would be adequate sight distance if the landscaping and lighting were removed from the right-of-way. His report calls out for speed limit signage on the street to be at 20mph.

Mr. Urdang noted that he wanted to cross examine Mr. Simoff. He also stated that he would be bringing his own traffic expert to the next meeting. It was noted that borough officials had not been given a copy of this report. Mr. Simoff will provide these copies for distribution.

Mr. Hals questioned Mr. Simoff about where his measurements were taken and noted that the standards that Mr. Simoff used in his report differ from what he would have used. Board members questioned Mr. Simoff at length regarding the right-of-way landscaping and lighting issues. Mr. Simoff contends that if everything was removed from the right-of-way that the sight distance would be acceptable and not a safety matter.

The meeting was opened to the public to question Mr. Simoff. Those residents voicing their concerns regarding safety, pedestrian traffic on Mayflower Drive and study results were:

- Eric Margolis, 30 Mayflower Drive
- Robert Reardon, 35 Mayflower Drive

There being no one else with questions for Mr. Simoff; this portion of the meeting was closed to the public.

Mr. Urdang explained that he did not have his traffic expert here this evening. He would like to cross examine Mr. Simoff at the next meeting and also plans to bring his own traffic expert as well. Both attorneys believe that the application hearing will be concluded at the next meeting.

The application hearing for Showl Hedvat, 28 Elkwood Terrace, Block 2103, Lot 3, will be continued to Wednesday, November 10, 2010, at 8:00 p.m., with the Work Session starting at 7:30 p.m. The

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board will convene one half hour earlier that evening. No further notification is required for the public. Mrs. Lorberbaum will handle the notice regarding the time change.

A motion was made by Mr. Zinna and seconded by Mr. Cho to adjourn the meeting at 11:18 p.m. A voice vote carried the motion. All were in favor; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi
Planning Board Secretary