

Approved 1/23/13

**REGULAR PUBLIC MEETING OF THE
TENAFLY PLANNING BOARD
December 12, 2012**

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 Peter Rustin	Councilman Jon Warmes
	Mary Beth Wilmit	Jeffrey Toonkel
	Gus Allen	Kevin Tremble
	Eugene Marcantonio	Marc Harrison
	John Kim	Ted Kagy
	Sheryl Gaines	

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

A motion was made by Mr. Marcantonio and seconded by Mr. Allen to approve the minutes of the Regular Public Meeting of October 24, 2012. A voice vote carried the motion. All were in favor; none were opposed.

Attorney Zenn noted that Elliot Urdang, attorney for PB# 1-10-10 A (Amend Site Plan), Tenafly Car Wash, Block 1208, Lot 2 – 277 County Road, contacted his office to request that the application be continued to the January 9, 2013, meeting. The board had no objection to this request. The meeting will commence at 8:00 p.m. without further notice from the applicant.

PUBLIC HEARING

PB#1-12-17 – Site Plan/Variance and Minor Subdivision

Applicants: Alfonso and Sandra Diasparra and Shelter Development, LLC

Block 1306, Lot 5 - Hudson, Madison and Atwood Avenues and N. Summit Street

Mr. Elliot Urdang is the attorney for the applicants. He explained that Shelter Development, LLC, is the contract purchaser of the property known as Hudson Avenue between Atwood Avenue and Madison Avenue, Block 1306, Lots 1-5. They are seeking site plan approval for an assisted living facility on proposed lot 2.01 along with certain variances and waivers.

Alfonso Diasparra and Sandra Diasparra, are the owners of the property known as Hudson Avenue between Atwood Avenue and Madison Avenue, Block 1306, Lots 1-5. They are seeking minor subdivision approval and site plan approval for a dance studio/warehouse on proposed lot 1.01 along with certain variances and waivers.

Mr. Zenn noted that the applicants have presented proof in the form of an affidavit that they complied with the statutory requirements as to service of notice of the application and of the public hearing to be

Approved 1/23/13

Tenaflly Planning Board, Regular Public Meeting
December 12, 2012
Page 2

held on the within application. All documentation is in order and the application may proceed this evening.

The following list of plans/exhibits was presented to the board for review:

1. Plans entitled "Minor Subdivision, Lots 1-5, Block 1306, Madison Avenue Subdivision" prepared by Hubschman Engineering, P.A. last revised November 29, 2012 consisting of one (1) sheet;
2. Plans entitled "The Shelter Group, Proposed 94 Bed - Assisted Living Facility, New Lot 2.01, Block 1306" prepared by Hubschman Engineering, P.A. last revised November 29, 2012 consisting of eight (8) sheets;
3. Plans entitled "Site Plan, Tenaflly Arts/Warehouse, New Lot 1.01, Block 1306" prepared Hubschman Engineering, P.A. last revised November 29, 2012 consisting of one (1) sheet;
4. Architectural plans entitled "Brightview Tenaflly, Shelter Group" prepared by JSA Architects dated August 31, 2012 consisting of four (4) sheets;
5. Plans entitled "Landscaping Plan, Brightview Senior Living at Tenaflly" prepared by JMC Consulting, P.C., last revised November 30, 2012 consisting of one (1) sheet;
6. Drainage Report for "Assisted Living Facility, The Shelter Group, New Lot 2.01 Block 1306" prepared by Michael J. Hubschman, P.C. dated November 1, 2012;
7. Exhibit A-1 which is a colorized version of the minor subdivision, last revised November 29, 2012;
8. Exhibit A-2 which is a colorized version of sheet 2313.3-2 of the Assisted Living Site Plan;
9. Exhibit A-3 which is a colorized version of sheet 2313.3-3 which is the grading plan for the Assisted Living site plan;
10. Exhibit A-4 which is a colorized version of the Landscaping Plan revised November 30, 2012;
11. Exhibit A-5 which is a Traffic Impact Statement prepared by Atlantic Traffic & Design Engineers, Inc. dated November 9, 2012;
12. Exhibit A-6 which is the architectural plan set (see #4 above) last revised December 20, 2012;

The Planning Board received and reviewed many letters and memos from Borough professionals, including:

- Letter report of the Board Engineer David Hals, Schwanewede/Hals Engineering dated December 4, 2012
- Memo from the Tenaflly ADA/Access For All Committee dated November 27, 2012
- Memo of the Tenaflly Chief of Police, Michael Bruno, dated November 30, 2012; and
- Emailed the comments from the Tenaflly Environmental Commission dated November 21, 2012

Mr. Urdang called on Michael Hubschman, a professional engineer and planner licensed in the State of New Jersey, who testified in summary as follows:

1. A subdivision is proposed which will take existing Lots 1, 2, 3, 4 and 5 in Block 1306 and reconfigure the parcel to create two new lots from the existing five lots. New lot 1.01 would consist of approximately 24,000 square feet and the balance of the parcel would be proposed new lot 2.01 consisting of approximately 94,025 square feet.
2. Proposed lot 1.01 will retain the existing dance studio/warehouse building and associated parking. A portion of the existing warehouse will be razed.
3. Proposed lot 2.01 will have a new assisted living facility developed on that site with associated parking.
4. Variances and waivers for the proposed subdivision are needed are as follows:
 - (a) minimum lot area for proposed lot 1.01 – 24,000 square feet are proposed, 30,000 is required;
 - (b) for proposed lot 1.01, the minimum width at the front setback proposed is 98.09 feet whereas 150 feet are required;
 - (c) for proposed lot 1.01, minimum width at the street line where 98.09 feet are proposed and 100 feet are required;
 - (d) for proposed lot 1.01, the minimum sideyard setback required is 15 feet and 3 feet are provided on the southeast property line and 0.5 feet are proposed on the southwest property line;
 - (e) for proposed lot 1.01, maximum building coverage permitted is 40% and applicant proposes 45.38%; and
 - (f) for proposed 1.01, the maximum improved lot coverage permitted is 70% and applicant proposes 87.45%
5. On the site plan for proposed lot 2.01, the following variances and waivers are needed:
 - (a) front yard setback of 30 feet is required and 25 feet on Hudson Avenue is proposed;
 - (b) front yard setback of 30 feet is required and 23 feet on Atwood Avenue is proposed;
 - (c) parking in the front yard is not permitted and 21 spaces are proposed

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

Mr. Urdang called upon David Holland, the Vice President of Development for Shelter Development, LLC, who described the programmed activities, dining services, transportation and personal care services to be provided at the facility. He also testified the proposed assisted living facility would have its routine assisted living units as well as an Alzheimer's unit. He further testified that this was not a skilled nursing facility and as such will obtain a license from the State of New Jersey only for an assisted living facility.

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

Mr. Urdang then called Jeff Fiore, a licensed professional engineer in the State of New Jersey, who was qualified as expert in traffic engineering. He presented a Traffic Impact Statement prepared by Atlantic Traffic & Design Engineers, Inc. He also testified that there will be a one-way access easement between lots 1.01 and 2.01, with the one-way access going from proposed lot 1.01 to proposed lot 2.01 in order that cars may exit onto Summit Street.

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

Mr. Urdang called as a witness Mark Moeller of JSA Architects, who described the architectural plans. He testified that the building will comply with all requirements of the Americans with Disabilities Act ("ADA").

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

Mr. Urdang presented the testimony of Anthony Guccione who is licensed as a landscape architect in New Jersey and was qualified as an expert in landscape architecture. He described the landscaping plans for the property. The board was extremely pleased with the landscaping plan submitted.

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

Mr. Zenn recapped the findings and conclusions of the Planning Board during the course of the hearing:

1. Appropriate public notice of the holding of the public hearing was given by the Board and appropriate announcements of the giving of such notice was made by the presiding officer of the meeting as required by the Open Public Meetings Act.
2. The applicant complied with statutory requirements for giving notice of the hearing of the application, including giving public notice by means of a legal advertisement in an

appropriate newspaper and mailing notice to all neighboring property owners within 200 feet.

3. The applicant, Shelter Development, LLC, is the contract purchaser of a portion of the subject premises being proposed lot 2.01. The owners of the property, Alfonso Diasparra and Sandra Diasparra, have consented to the application and are the applicants for the proposed subdivision and for the site plan application on proposed lot 1.01.
4. The entire block that is the subject of this application is surrounded by Atwood Avenue, Hudson Avenue, Summit Street and Madison Avenue. That is currently designated on the Tenaflly tax map as Block 1306, Lots 1, 2, 3, 4 and 5. It is located in the SR/B Senior Residence Business Zone District. The entire block consists of approximately 118,025 square feet. Applicant proposes to subdivide the property to create two lots out of the existing five lots. Proposed lot 1.01 would consist of approximately 24,000 square feet and proposed new lot 2.01 would consist of approximately 94,025 square feet.
5. Proposed lot 1.01 will retain the existing dance studio/warehouse building and associated parking. A portion of the existing warehouse building will be razed. Proposed lot 2.01 will be improved with an assisted living facility and associated parking.
6. The proposed lot lines on lot 1.01 are to be 3 feet from the rear of the dance studio/warehouse and 0.5 feet southwest of the warehouse partition wall. All the improvements on this lot are in existence.
7. On proposed lot 2.01, applicant proposes to demolish all existing improvements and construct thereon a three-story assisted living facility consisting of approximately 69,121 square feet of space. The proposed building is to be located on the westerly portion of the site. An access driveway is proposed from Hudson Avenue. A canopy is proposed over the driveway at the front of the building. The Hudson Avenue driveway provides access to the canopy and 19 parking spaces. A parking area for 34 spaces is proposed on the eastern portion of the site (the rear of the building) with access driveways to North Summit Street and Madison Avenue. Total parking provided is for 53 vehicles.
8. Although the plans show 94 beds, applicant indicated that the assisted living facility is proposed for 96 beds. The proposed density is 45 beds/acre (96/2.16 acres) which is permitted. The proposed parking meets the requirements of the Residential Site Improvement Standards ("RSIS") which only requires 48 parking spaces.
9. The subdivision application requires several variances. First, minimum sideyard setback is 15 feet. The applicant proposes 3 feet on proposed lot 1.01 on the southeast property line and 0.5 feet on the southwest property line. This is due to the fact that there is already an existing structure on the proposed lot and the need to maintain the required setback of the proposed development on lot 2.01. The existing setback is only about 10 feet so there is an existing non-conformity.

10. A variance for the subdivision is necessitated because proposed lot 1.01 is 24,000 square where 30,000 square feet is required in the SR/B zone district. Proposed lot 1.01 is roughly 98 feet by 244 feet and a portion of an existing warehouse is being taken down and removed from the site in connection with this application. Although proposed lot 1.01 is still deficient in terms of area, the application on the whole actually minimizes the non-conformity because existing Lots 2, 3, 4 and 5 each are much less than the required 30,000 square feet and non-conforming. Thus, this application reduces the existing non-conformity.
11. The lot width at the front setback for proposed lot 1.01 is 98.09 feet where 150 feet are required. This is due to the fact that the proposed lot 1.01 is a corner lot and essentially has two lot frontages along Atwood Avenue and Summit Street. In fact, along Atwood Avenue, the lot width is 244.62 feet.
12. The lot width at the street line for proposed lot 1.01 is 98.09 feet whereas 100 feet are required. As set forth above, this is due to the fact that the proposed lot 1.01 is a corner lot and has two lot frontages on Atwood Avenue and Summit Street as set forth above. In any case, this is a minimal deviation.
13. The subdivision also creates on proposed lot 1.01 a variance for a maximum building coverage where 40% is the maximum and 45.38% is proposed. This is an existing building that is actually being reduced because a portion of the existing warehouse is being removed to accommodate the new development on proposed lot 2.01. Although this creates a non-conformity on proposed lot 1.01, the building coverage for proposed lot 2.01 is only 28.7%. On an aggregate basis, total building coverage for the entire parcel is only 32% which complies with the ordinance.
14. Another variance created by the subdivision is for maximum improved lot coverage on proposed lot 1.01 where 70% is the maximum permitted and 87.45% is proposed due to the creation of a new lot line. Although this creates a non-conformity, the improved lot coverage for proposed 2.01 is 64.99%. On an aggregate basis, total improved coverage for the entire parcel is 69.5% which complies with the zoning ordinance.
15. A waiver/exception is needed in connection with this subdivision as a dedication of a right-of-way of a 25 foot half-width is required pursuant to LDR 35-722.3.c and only 20 feet are proposed on Atwood Avenue and Madison Avenue. That is because the existing right-of-way for each of Atwood Avenue and Madison Avenue is only 40 feet and the half-width thus produced is limited to 20 feet. The dedication of the additional right-of-way will reduce the size of the proposed lots which would potentially impact the development of the property. The Board Engineer recommended, and the applicant agreed to stipulate, that it would provide a 5 foot wide road widening easement along Atwood Avenue and Madison Avenue in place of the dedication.
16. The development of the proposed assisted living facility on lot 2.01 will require several variances and/or waivers/exceptions.

17. The front yard setback in the SR/B zone along Hudson Avenue is 30 feet and the applicant proposes 25 feet because of an architectural feature on the second and third floors which encroaches 5 feet into the setback. That architectural feature is an overhang which improves the aesthetics of the building and its impact is minimized because it is not on the ground level. Accordingly, a variance for setback can be approved.
18. A 30 foot front yard setback is required along Atwood Avenue and only 23 feet are proposed there. This arises because the property is a corner lot with frontage on three streets (Atwood, Hudson and Madison) which creates an undue hardship as essentially there are three front yards when in actuality the Atwood Avenue side of the building has the functionality of a side yard setback which requires merely 20 feet. Accordingly, a variance can be granted for this deviation.
19. A variance is needed for proposed parking in the front yard where the LDR prohibits parking in the front yard. Here, 21 spaces are proposed in the front yard. However, this partially results from the property having frontage on three streets. In essence, the building fronts on Hudson Street and there is some parking in that front yard. Some of the parking spaces that are technically in the front yard are along Madison Avenue which acts as a sideyard in this case. Because this is an assisted living facility, the Board notes that parking near the entrance particularly for short-term visitors to the facility provides utility. Accordingly, a variance can be granted for parking in the front yard.
20. During the course of the hearing, the applicant stipulated to the following conditions:
 - (a) if it became burdensome for the Tenaflly emergency services, they would consider arranging for private ambulance services;
 - (b) a 96-bed facility is proposed, not a 94-bed facility as shown on the architectural plans;
 - (c) there would be no light spillage onto any adjoining properties except in a small way onto Summit Street;
 - (d) employee parking will be in the rear of the facility;
 - (e) the applicant will create a one-way access easement from the dance studio/warehouse parking area (proposed lot 1.01) onto the assisted living facility (proposed lot 2.01) for exit onto Summit Street;
 - (f) per the Tenaflly Police report, applicant will add a handicap parking space in the rear of the property thereby losing one regular parking space;
 - (g) if in the opinion of the Board Engineer, the top of the assisted living facility needs screening from the adjacent residential development at The Plaza, then applicant will agree to provide screening of the mechanicals on the roof, subject to the satisfaction of the Board Engineer;

- (h) applicant will comply with all requirements of the ADA;
 - (i) applicant shall provide the Borough with a five-foot road widening easement along Atwood Avenue And Madison Avenue;
 - (j) applicant will provide necessary cross-easements as a condition of approval subject to the review and approval of the Board Attorney and Engineer;
 - (k) Applicant reviewed and agrees to comply with the comments set forth in the Schwanewede/Hals Engineering review letter of December 4, 2012 except that granite block curbing will not be provided along the existing depressed curb in front of the warehouse building on Atwood Avenue; and
 - (l) new inlets shall be installed at the intersection of Hudson Avenue and Atwood Avenue except if applicant regrades that intersection to eliminate ponding, which shall be subject to the approval of the Board Engineer.
21. The applications and variances proposed make for better land use than that which currently exists. The existing lots and structures on the parcel are more non-compliant than the proposed improvements. These applications make the parcel more conforming with the zoning ordinance. Moreover, there is no substantial detriment to the Zoning Ordinance or the Master Plan as a result of the variances. Further, certain variances are created because of the undue hardship as a result of the location of existing structures on the lots as well as the existing configuration with multiple street frontages. Accordingly, the variances may be granted.
22. All of the foregoing variances do not substantially impair the intent of the Master Plan or the Zoning Ordinance. None of them, either individually or in the aggregate, will cause a substantial harm or detriment to the surrounding neighborhood. This development is located across the street from a bank and a proposed commercial building. The requested variances and waivers are largely related to conditions on site and do not affect the adjoining properties. The Planning Board finds that the applicant has submitted sufficient and substantial proof for the granting of the site plan, subdivision and variances and waivers as set forth above. This approval is consistent with the purposes of the LDR and Master Plan and this project is substantially in conformity with the Borough's zoning objectives.

A motion was made by Mr. Marcantonio and seconded by Mr. Toonkel to approve the application as submitted with the above referenced stipulations/conditions. The roll was called and the motion carried. Voting YES: Mrs. Wilmit, Mr. Allen, Mr. Tremble, Mr. Toonkel, Mr. Harrison, Mr. Marcantonio, Mr. Kim, Councilman Warms and Mayor Rustin.

A motion was made by Mr. Allen and seconded by Mr. Toonkel to approve the 2013 Planning Board Budget. A voice vote carried the motion. All voted in favor; none were opposed.

Approved 1/23/13

Tenaflly Planning Board, Regular Public Meeting
December 12, 2012
Page 9

A motion was made by Mr. Allen and seconded by Mr. Harrison to approve the 2013 Meeting Schedule. A voice vote carried the motion. All voted in favor; none were opposed.

A motion was made by Mr. Tremble and seconded by Mr. Harrison to cancel the December 19, 2012, meeting due to lack of applications. A voice vote carried the motion. All voted in favor; none were opposed.

With the time being so late, the Planning Board holiday party will not be at TPR after the meeting.

A motion was made by Mr. Tremble and seconded by Mr. Marcantonio to adjourn the meeting at 10:51 p.m. to go into a Closed Session. A voice vote carried the motion. All voted in favor; none were opposed.

Respectfully submitted,

Valerie B. Nicolosi
Planning Board Secretary

Special acknowledgment to Jeffrey Zenn, Esq. for resolution detail.