

## **Hawthorne Planning Board Minutes of May, 2014 Regular Meeting**

The May, 2014 regular meeting of the Hawthorne Planning Board was called to order on May 20, 2014 at 7:33 P.M. by Chairman Garner. After recital of the Pledge of Allegiance, Board Secretary William A. Monaghan, III called the roll. All members and alternates except Mr. Ruta and Mr. Kowalski were present as well as Board engineer Michael J. Kelly, P.E. and Board attorney/secretary William A. Monaghan, III, Esq. Chairman Garner announced that notice of the meeting had been published and posted in accordance with the Open Public Meetings Act.

### **MINUTES**

1. On a motion made by Mr. DeAugustines and seconded by Mr. Matthews, the Board approved the minutes of the April regular meeting.
2. On a motion made by Mrs. Zakur and seconded by Vice Chairman Lucibello, the Board approved the minutes of the May work session.

**CORRESPONDENCE** – None

### **BILLS**

1. A motion was made by Mr. Matthews, seconded by Vice Chairman Lucibello, and approved by a vote of 6-0 to approve payment of a bill of the Hawthorne Press for Invoice No. 989262 in the amount of \$17.94.

### **RESOLUTIONS**

1. With regard to the application of **Pro City Print, LLC**, a motion was made by Mr. DeAugustines, seconded by Mr. Matthews and approved by a vote of 5-0 to approve a resolution memorializing the action taken by the Board at its April 15, 2014 meeting.
2. With regard to the application of **Zorrilla Agency & Co.**, a motion was made by Mrs. Zakur, seconded by Vice Chairman Lucibello and approved by a vote of 5-0 to approve a resolution memorializing the action taken by the Board at its May 6, 2014 meeting.

**CERTIFICATE OF COMPLIANCE PLAN REVIEW** – None

## OLD BUSINESS

1. With regard to the application of **John Hryncewich**, Darryl Siss, Esq. appeared as attorney for the applicant together with Mr. Hryncewich for the continuation of the hearing.

Mr. Monaghan introduced Donna Holmqvist of Burgis Associates, Inc., the Borough planner. After being sworn, she testified that she received an undergraduate degree from Douglass College and a master's degree in urban planning. She has been a licensed professional planner in New Jersey since 1990 and has been associated with the Burgis firm since 1995. She was permitted to testify as an expert witness on the planning issues involved in the present application. She indicated that her firm had prepared a Memorandum dated May 9, 2014 containing a planning analysis of the Hryncewich application. Copies of the Memorandum were previously provided to Board members and Mr. Siss.

Ms. Holmqvist then reviewed the significant portions of the Memorandum, focusing on the steep slope issues, particularly the variance required for proposed Lot F. She noted that one of the objectives in the most recent master plan re-examination report is to curtail development on steep slopes. She concluded by re-stating the recommendation in the Memorandum that elimination of Lot F would be a better planning alternative.

The hearing was opened to the public for questions of Ms. Holmqvist without response.

Mr. Siss was then permitted to cross-examine Ms. Holmqvist. She indicated that she had reviewed the report and exhibits of the applicant's planner but had not personally prepared the Memorandum submitted by her firm. In response to questions from Mr. Siss, she agreed that approval of the application would have the benefit of removing a number of existing non-conformities on the site. She offered her opinion that the proposal as submitted is a worse alternative based on the steep slope disturbances and lot width variances and that elimination of Lot F would allow a different and more preferable configuration of the proposed development.

Mr. Siss then requested that his client be permitted to address the Board directly prior to Mr. Siss' summation. Mr. Hryncewich read a prepared statement in which he urged the Board to approve the application, but offered, as a condition of approval, to agree to restrict one of the proposed two family lots to development with a one family house.

Prior to commencement of his summation, Mr. Siss submitted a revised Exhibit List with Exhibits A-1 through A-27. He then made a closing statement in which he argued that the benefits of his client's proposal, including elimination of existing non-conformities, outweighed the detriments such as disturbance of steep slopes and lot width deficiencies. He also stated his position that the testimony adduced on behalf of the applicant met the criteria in the applicable ordinance for disturbance of

steep slopes. He cited case law in support of his position and urged the Board to find that the benefits of the application outweigh the detriments so as to meet the criteria for approval of the required variances.

The hearing was then opened for public comment. Margaret Elwood urged the Board to consider ongoing flooding issues in the area. Dave Hoskins objected to approval of any two family homes. Cathy DeBrock opposed two family homes and the resulting parking problems. The hearing was then closed to further public comment.

Chairman Garner then polled the Board members regarding their positions on the applicant's proposal. Several members expressed opposition to the application based on the steep slope considerations.

Mr. Siss requested a short recess to consult with his client.

The Board reconvened at 10:15 P.M. Mr. Monaghan called the roll and all members present at the start of the meeting were present.

Mr. Siss then advised the Board that his client agreed to amend the application to eliminate proposed Lot F and merge proposed Lots E and F. After brief discussion, a motion was made by Mayor Goldberg, seconded by Mrs. Zakur and approved by a vote of 7-0 to grant preliminary subdivision approval with bulk variances for the amended application subject to preparation of a memorializing resolution by the Board attorney including the following conditions:

1. Amendment of the application to merge Lots E and F and submission of revised plans reflecting the amendment.
2. Submission of individual plot plans for the new lots to be developed showing all utilities below grade.
3. Maintenance of stormwater facilities to be the responsibility of individual lot owners and confirmed by deed restrictions and included in the developer's agreement.
4. The applicant shall dig test pits for rock and submit the results for review by the Borough engineer.
5. Compliance with the comments of the Board engineer in his reports dated December 11, 2013 and January 16, 2014.
6. The applicant shall be responsible for control of stormwater runoff during construction of any new dwellings or improvements.

7. Execution of a developer's agreement with the Borough of Hawthorne to be prepared by the Borough attorney and submitted for review and approval by the governing body.
8. Revision of the plans to show extension of the proposed sidewalk to the driveway of Lot G.
9. Revision of the plans to add trench drains at the driveways of the proposed lots.
10. Revision of the plans to provide for a roadway width of thirty feet for Sotnick Street.
11. Possible relocation of the sewer line to be reviewed by the Board engineer.
12. Inclusion in the developer's agreement of a provision for a time limit of five years for completion of the roadway from the start of construction of the road.

### **NEW BUSINESS**

1. The Board conducted a review of proposed Ordinance No. 2115-14 which was forwarded to the Board by Borough Clerk Lori DiBella pursuant to N.J.S.A. 40:55D-26. Since the proposed ordinance merely amends the previously adopted Ordinance 2112-04 by adding an additional property to the B-3 Zone, the Board finds that the proposed ordinance is consistent with the goals and objectives of the Borough Master Plan.

### **PUBLIC**

The meeting was then opened for public comment without response.

The meeting was then adjourned at 10:40 P.M.

Respectfully submitted,

William A. Monaghan, III, Esq.  
Board Attorney/Secretary