

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

The March, 2014 regular meeting of the Hawthorne Planning Board was called to order on March 18, 2014 at 7:31 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 Ms. DiMattia 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 Vice Chairman Lucibello and seconded by Mr. Kowalski, the Board approved the minutes of the February regular meeting.
2. On a motion made by Mr. Ruta and seconded by Mr. Matthews, the Board approved the minutes of the March work session.

### **CORRESPONDENCE** – None

### **BILLS**

1. A motion was made by Mayor Goldberg, seconded by Mr. DeAugustines, and approved by a vote of 7-0 to approve payment of bills of the Hawthorne Press for Invoice No. 989136 in the amount of \$46.02 and Invoice No. 989169 in the amount of \$23.40.

### **RESOLUTIONS**

1. With regard to the applications of **Isaura Gluten Free Bakery** and **Pure Glass**, a motion was made by Mr. Matthews, seconded by Mr. Kowalski and approved by a vote of 6-0 to approve resolutions memorializing the actions taken by the Board at its March 4, 2014 meeting.

### **CERTIFICATE OF COMPLIANCE PLAN REVIEW** – None

### **OLD BUSINESS**

1. With regard to the application of **Four Season Limousine Corp.**, based on the failure of the applicant to appear at the March 4, 2014 Board meeting, a motion was made by Mayor Goldberg, seconded by Mr. Ruta and approved by a vote of 7-0 to deny the application without prejudice.

2. With regard to the application of **John Hryniewicz**, Darryl Siss, Esq. appeared as attorney for the applicant. Mr. Monaghan noted the receipt of a letter dated March 12, 2014 from Mr. Siss in which he indicated the applicant's agreement to increase the width of the proposed road to 30 feet. Mr. Siss also confirmed the applicant's agreement to extend the statutory time for Board action on the application.

Mr. Siss then re-called Bruce D. Rigg, P.E., the applicant's engineer, for additional testimony. Mr. Rigg, previously sworn, reviewed the RSIS parking requirements as well as the Borough ordinance provision in Section 540-11b. He indicated that under RSIS, a three bedroom unit/apartment would require two on-site spaces per unit, or a total of 4 spaces for a two family house. With regard to the proposed street, the applicant proposes a pavement width of 30 feet with a 16 foot traveled way and parking on both sides of the street.

In response to a question previously raised by a member of the public, he indicated that the stormwater from Braen Avenue eventually drains under Route 208 near the Nissan dealership. Mr. Rigg stated, and Mr. Kelly concurred, that post-development runoff from the site would decrease because the area of impervious surface would be decreased.

Mr. Kelly requested updated drainage calculations to account for the increase in roadway width and revised plans showing the new roadway width.

In response to an inquiry by the Board, Mr. Siss indicated that the applicant would agree to a limit of three bedrooms per unit in the proposed two family houses.

Mr. Rigg stated that the dimensions of the proposed cul-de-sac would not change based on the increase in width of the street.

He also testified that the existing drainage flows toward the residence on the east side of Sotnick Street whereas the applicant's proposal would collect stormwater in an inlet at the end of proposed Lot G, reducing the amount flowing toward the house on the east side of Sotnick Street. He further stated that less water would go into the Braen Avenue culvert after construction of the proposed development.

After discussion, Mr. Kelly recommended, and the applicant agreed, to include trench drains at the ends of the proposed driveways and to include a berm on Lot D graded to the seepage pit on the lot.

Mr. Siss then called as a witness Peter G. Steck, P.P. After being sworn, he testified that he has been licensed as a professional planner in New Jersey since 1976. He has a master's degree in planning and has testified before numerous land use boards as well as provided expert testimony in court. Based on his professional license,

education and experience, he was accepted as an expert witness. He indicated that he had walked the subject site, driven around the neighborhood and reviewed the Borough ordinance and master plan.

Mr. Steck presented an exhibit marked as A-27 consisting of five pages, P-1 through P-5 which he prepared, including photos which he took.

Using the exhibit, Mr. Steck then described existing conditions and offered his opinion from a planning perspective on the applicant's proposal. He noted a number of existing non-conformities: restricted frontage on Sotnick Street for present lots 7 and 8, and two existing dwellings on Lot 8. He stated that the two proposed new dwellings on Lots E and F would replace what he considered substandard dwellings. The proposed two family lots are all conforming. On P-3 of his exhibit, he showed a number of substandard lot widths (marked with red dots). He described the topography to the north of the subject site as also including steep slopes.

He indicated that he had reviewed the Borough Master Plan.

Using P-4 of his exhibit, he discussed the variances required for approval of the application. For Lot G, although a wall length variance is required, he stated that existing conditions on the lot would be improved. He noted the irregular shapes of Lots E and F as the basis for the lot width variances since the average widths are calculated as 86.0 and 86.4 feet respectively.

With regard to the sidewalk issue, he offered his opinion that since grading would be required on the adjoining residential property in order to construct sidewalks on both sides of the proposed street, and since low traffic would be generated at the end of the cul-de-sac, and since future development of the other side of Sotnick Street could include a requirement for a sidewalk, this applicant should not be required to include sidewalks on both sides of the street and that a waiver from RSIS requirements would be appropriate.

With regard to steep slopes, he questioned whether variances are required based on his review of the Borough ordinance. Mr. Monaghan disagreed with Mr. Steck's interpretation of the ordinance.

With regard to parking, he stated his opinion that based on the proposed garages and driveways, all of the proposed lots conform to RSIS parking requirements.

Mr. Steck then stated his conclusions regarding the overall development plan, which, he argued, presented a logical planning approach: Lots A, B, C and D are fully conforming with the proposed building envelopes; Lot H is conforming in size but has pre-existing non-conformities; for the reconfiguration of the lots in the R-1 zone, the existing dwellings are substandard and the development would improve

access, including emergency access, to the lots; the steep slopes are generic to the area and have been successfully developed previously; the lots with undersized widths are irregular in shape but much wider than other lots in the area.

He further opined that the variances required for approval met the statutory requirements both for (c)(1)(hardship) and flexible (c)(2) (benefit v. detriment) for the reasons he previously discussed as well as the benefits of removal of the industrial building and removal of the non-conformity of two dwellings on one lot, improvement of public access with conforming pavement width and cul-de-sac radius, and lessening the rate of stormwater runoff. He concluded his testimony by stating that in his opinion the applicant had met the burden of proof as to both the positive and negative criteria for (c) variances and that the proposed development conformed with the Borough's zone plan.

Chairman Garner then opened the hearing for questioning of Mr. Steck on his direct testimony. Mayor Goldberg asked if he was aware that Ravine Drive was developed prior to enactment of the steep slope ordinance and also asked if the development was subject to affordable housing regulations.

Discussion then took place between Mr. Steck, Board engineer Michael Kelly and Edward J. Snieckus, Jr., P.P., of Burgis Associates, the Board planner, regarding the possible effect of modifying the applicant's plan to combine proposed Lots E and F. Mr. Steck responded that although combining the lots could eliminate the necessity for variance relief, the applicant would be "penalized" by the creation of a "super-size" lot. He felt that since the applicant's proposal complied with the applicable density requirement and in his opinion met statutory tests, combining the lots would be unduly restrictive. When pressed further by Mr. Snieckus regarding the benefits of the plan, Mr. Steck repeated his opinion that the present plan meets statutory and case law requirements and represents a better zoning alternative.

Chairman Garner then opened the hearing for public comment and questions. All members of the public who commented were sworn. Carl Schmidt objected to the slope of the proposed street, the front yard setback on Lot G, the magnitude of the steep slope disturbance and the lot width variances for Lots E and F. Dave Hoskins raised a concern about access for emergency vehicles in the cul-de-sac. Reyna Laiosa, chairperson of the Environmental Commission, asked about the use of non-structural stormwater management measures. Margaret Elwood expressed doubt about the adequacy of the stormwater line on Braen Avenue. Catherine De Brock objected to the overall density of the development and the proposal for street parking on Sotnick Street. Deborah Kline also objected to the number of units proposed.

A motion was then made, seconded and unanimously approved to close the public portion of the hearing.

Chairman Garner then advised Mr. Siss that the Board planner would evaluate Mr. Steck's testimony, prepare a report in response, and appear at the next regular Board meeting to present his report and testimony.

A motion was then made, seconded and unanimously approved to continue the hearing to the April 15, 2014 Board meeting.

**NEW BUSINESS** – None

**PUBLIC**

The meeting was then opened for public comment without response.

The meeting was then adjourned at 10:20 P.M.

Respectfully submitted,



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