Hawthorne Planning Board
Minutes of November, 2008 Regular Meeting

The November, 2008 regular meeting of the Hawthorne Planning Board was called to order on November 25, 2008 at 7:32 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 were present as well as Board engineer John M. Pacholek, 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 Vice Chairman Lane, the Board approved the minutes of the October work session, October regular meeting and November work session.

CORRESPONDENCE – None

BILLS

1. A motion was made by Mr. Matthews, seconded by Vice Chairman Lane, and approved by a vote of 7-0 to approve payment of a bill of the Hawthorne Press for Invoice No. 985222 in the amount of $21.84.

RESOLUTIONS

1. With regard to the applications of **Fabulous Munchies, LLC, The Fashion Design Workshop, Live Production Group LLP** and **VN Auto Repair,** a motion was made by Mr. Matthews, seconded by Mr. Lucibello and approved by a vote of 7-0 to approve resolutions memorializing the actions taken by the Board at its November 3, 2008 meeting.

2. With regard to the application of **A Plus Towing & Recovery LLC,** a motion was made by Vice Chairman Lane, seconded by Mr. Ruta and approved by a vote of 7-0 to approve a resolution memorializing the action taken by the Board at its October 7, 2008 meeting.

3. With regard to the application of **Big-Boned Cats Publishing LLC,** a motion was made by Mr. Matthews, seconded by Mr. DeAugustines and approved by a vote of 6-0 to approve a resolution memorializing the action taken by the Board at its October 7, 2008 meeting.

4. With regard to the application of **Rainbow Specialty Colors, Inc.,** a motion was made by Mr. Lucibello, seconded by Mr. Ruta and approved by a vote of 7-0 to approve a resolution memorializing the action taken by the Board at its October 21, 2008 meeting.

5. With regard to the application of **Reiner Group, Inc.,** a motion was made by Mr. Ruta, seconded by Vice Chairman Lane and approved by a vote of 7-0 to approve a resolution memorializing the action taken by the Board at its October 7, 2008 meeting.

CERTIFICATE OF COMPLIANCE PLAN REVIEW – None

OLD BUSINESS

1. With regard to the Johnson-Taylor property on Goffle Road, Vice Chairman Lane inquired as to whether Mr. Monaghan had received a response to his last correspondence to the applicant's attorney regarding removal of the existing trailer at the site. Mr. Monaghan indicated that he had received no communications from the applicant's attorney. The Board directed Mr. Monaghan to contact the Borough Construction Official regarding possible enforcement action.

2. With regard to the **M&P Foreign Used Cars II, Inc.** application, Vice Chairman Lane inquired as to the status of the changes to the lighting at the site. Mr. Monaghan indicated that he had received a telephone message from the applicant's architect, Mr. Easse, and would follow up and report to the Board.

3. With regard to the application of the **Estate of Bernard Czajkowski,** Ralph E. Faasse, Esq. appeared as attorney for the applicant. He made an opening statement in which he indicated that, in accordance with a letter to the Board dated November 19, 2008, his client amended the application to provide that the lot proposed to be created would be limited to construction of a one-family dwelling. The amendment of the application would eliminate the need for lot width and sideyard variances.

   Mr. Monaghan noted the receipt of the following documents in connection with the application: A letter dated November 25, 2008 from Francis J. Battersby, Esq., attorney for an adjacent property owner, withdrawing an objection to the application based on the amendment requesting approval for a one-family lot rather than a two-family lot; a letter dated November 21, 2008 from the Hawthorne Shade Tree Commission regarding its review of the application; a letter dated November 25, 2008 from Donald Turner, Borough Code Enforcement Officer, regarding his inspection of the subject property in response to comments made by an adjoining property owner at the work session hearing. Mr. Monaghan also acknowledged receipt of proof of publication and service of notice by the applicant.

Mr. Faasse noted that the applicant had submitted a topographical survey as well as a minor subdivision plat in support of the application. The Board received a report from the Board engineer dated September 30, 2008.

Mr. Faasse then called as his first witness Bruce D. Rigg, P.E., L.S., P.P. After being sworn, based on his credentials and experience, as well as his numerous appearances before the Board, Mr. Rigg was permitted to testify as an expert witness. He described the existing conditions at the subject site which consists of a parcel 132 feet by 388 feet on which is currently located a two-story, two-family residence. The property, containing approximately 51,300 square feet, is affected by a wetland area in the rear of the site but the applicant's proposal would not interfere with the wetlands. Mr. Rigg indicated that the applicant proposes to subdivide the property, located in the R-2 Zone, into two lots. One lot would contain the existing dwelling. Due to the location of the dwelling, a one foot sideyard variance would be required for a nine foot sideyard where ten feet is required. The new lot to be created would have a lot width of 50 feet and depth of 388 feet. The new lot would be fully conforming for a one-family house. Mr. Rigg stated that the sideyard variance could be eliminated by revising the proposed new lot line but the width of the new lot would be undersized. Mr. Rigg offered his opinion that the granting of the sideyard variance would not substantially impair the intent and purpose of the zoning ordinance or cause substantial detriment to the public good in that the only property affected would be the new lot and the size of the requested variance is small.

Mr. Rigg further advised the Board that the existing driveway would be removed and replaced by a new driveway on the west side of the existing dwelling. A low retaining wall would be required along the proposed driveway. He stated that no drainage problems would result from the proposed subdivision in that the property slopes toward the wetlands in the rear of the site. In response to the letter from the Hawthorne Shade Tree Commission, he stated that the applicant agreed to replace the one Borough tree required to be removed with two trees as required.

In response to the report from the Board engineer, Mr. Rigg stated that the applicant could comply with all issues set forth in Mr. Pacholek's report. He concluded by stating that the applicant is not proposing any construction at this time but rather merely seeking subdivision approval for a new lot upon which a fully conforming one-family house could be built.

Vice Chairman Lane indicated that he would prefer to see a footprint of a proposed dwelling on the plan as well as a drainage plan. Mr. Lucibello questioned whether the proposed driveway could be extended to the rear of the existing dwelling to provide for additional off-street parking. Mr. Rigg responded that additional trees would be lost by extending the driveway.

Mr. Faasse called as his next witness Joanne M. Johnson. After being sworn, she testified briefly that she is the executrix of her father's estate and that the basement of the existing house contains a playroom with a bathroom and a sink.

Mr. Faasse called as his next witness Walter Johnson, Joanne's husband. After being sworn, he testified that he is familiar with the existing dwelling. He stated that the subdivision would assist in the distribution of his late father-in-law's estate, with his wife retaining a south Jersey property and each of her two brothers obtaining a lot in the proposed subdivision. He indicated that the basement of the existing dwelling contains a bathroom and sink, but no stove.

Mr. Faasse then offered as an exhibit a photograph of the westerly side of the property dated May 14, 2008. The photograph was admitted and marked as Exhibit C-1. Mr. Faasse indicated that his presentation was concluded.

The hearing was then opened for public comment. Robert Harris, 42 Braen Avenue, requested the opportunity to be heard. After being sworn, he indicated that he owns the property immediately adjacent to the subject site on the westerly side. He advised the Board that he objects to the relocation of the driveway for the existing dwelling to the west side of the property since the new driveway would nearly abut his property and would in effect locate a parking lot on what is currently a lawn area. He also described the difficult traffic and parking conditions in the neighborhood.

The public comment portion of the hearing was then closed. Extensive discussion took place between Board members, Mr. Faasse and Mr. Rigg regarding possible alternative designs for the project specifically with regard to the proposed relocation of the driveway for the existing house. Board members noted that no provision was made for a garage. A suggestion was made regarding possible extension of the driveway to the rear of the existing house.

Based on the discussion and comments of the Board members, Mr. Faasse then requested a continuance of the hearing to the December 16, 2008 Board meeting for possible changes to the applicant's proposal. A motion was made, seconded and unanimously approved to grant the request and Mr. Faasse consented on behalf of the applicant to extend the statutory time period for Board action.

NEW BUSINESS

1. With regard to the application of **Realty Acquisition Group, LLC**, Mr. Monaghan reported the receipt of a letter dated November 21, 2008 from Brian M. Chewcaskie, Esq., attorney for the applicant, requesting an adjournment of the hearing to the December 16, 2008 Board meeting. As a result of scheduling conflicts with Board members, the Board voted unanimously to grant the adjournment request but scheduled the hearing for January 6, 2009, the first Board meeting of the new year. Mr. Monaghan announced to the public that no further publication or notice to surrounding property owners would be required. Mr. Monaghan will also notify the applicant's attorney of the adjourned date and inquire as to the status of the traffic study to be obtained by the applicant.

2. In accordance with the provisions of the Municipal Land Use Law, the Board conducted a review of proposed Ordinance No. 1960-08, an amendment of the Soil Moving Ordinance, Chapter 179. Mayor Goldberg advised the Board that the purpose of the proposed amendment is to vest more authority for review of soil movement permit applications in the Borough engineer and Planning Board, and to limit the jurisdiction of the governing body to appeals. The proposed ordinance is modeled after a similar provision in the Borough of North Haledon. The rationale for the change is that since the Planning Board in most cases would hear site plan and subdivision applications potentially involving larger soil movement issues, review of the soil movement application by the same Board is both logical and efficient. After brief discussion, a motion was made by Vice Chairman Lane, seconded by Mr. Ruta and approved by a vote of 5-0, with Mayor Goldberg and Mr. Matthews abstaining to recommend the adoption of the proposed Ordinance 1960-08.

PUBLIC

The meeting was then opened for public comment without response.

The meeting was then adjourned at 9:32 P.M.

Respectfully submitted,

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