Hawthorne Planning Board
Minutes of June, 2011 Regular Meeting

The June, 2011 regular meeting of the Hawthorne Planning Board was called to order on June 21, 2011 at 7:30 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. DeAugustines and Mrs. Forshay 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. Ruta, the Board approved the minutes of the May regular meeting and June work session.

CORRESPONDENCE – None

BILLS

1. A motion was made by Mayor Goldberg, seconded by Ms. DiMattia, and approved by a vote of 7-0 to approve payment of a bill of the Hawthorne Press for Invoice No. 987298 in the amount of $25.74.

RESOLUTIONS

1. With regard to the application of **Wojo Hair Company**, a motion was made by Mr. Kowalski, seconded by Ms. DiMattia and approved by a vote of 5-0 to approve a resolution memorializing the action taken by the Board at its May 17, 2011 meeting.

2. With regard to the application of **WWY & WH LLC**, a motion was made by Mr. Ruta, seconded by Vice Chairman Lucibello and approved by a vote of 4-1 to approve a resolution memorializing the action taken by the Board at its June 7, 2011 meeting.

CERTIFICATE OF COMPLIANCE PLAN REVIEW

1. With regard to the application of **Eric's Auto Sales**, Eric Gensinger, owner, appeared on behalf of the applicant. After being sworn, he testified that the water and sewer connections to the property had been completed and inspected and the sink, toilet and hot water heater had been installed and are currently in working order. Mayor Goldberg reported that in response to complaints regarding the condition of the site, the property maintenance officer had been requested to visit the premises. Mr. Gensinger agreed to take appropriate measures to improve the appearance of the property. Based on the applicant's compliance with the conditions established by the Board for issuance of a certificate of compliance, a motion was

then made by Ms. DiMattia, seconded by Mayor Goldberg and approved by a vote of 6-0 to grant the application for certificate of compliance plan review subject to preparation of a memorializing resolution by the Board attorney.

OLD BUSINESS

1. With regard to the application of **Fulvio Grosso**, Patrick C. DeMarco, Esq. appeared as attorney for the applicant together with the applicant and Bruce D. Rigg, P.E., the applicant's engineer. Mr. Monaghan placed Mr. Grosso, Mr. Rigg and Board engineer Michael Kelly under oath. In addition to the application documents, Mr. Monaghan noted the receipt of reports from the Hawthorne Fire Department, Hawthorne Police Department, Hawthorne Environmental Commission and Hawthorne Shade Tree Commission.

   Mr. DeMarco called as his first witness, Bruce D. Rigg, P.E. Based on his professional qualifications and numerous prior appearances before the Board, he was permitted to testify as an expert witness. He indicated that he prepared the engineering plans submitted in support of the application with a latest revision date of February 28, 2011. He then outlined the applicant's proposal to subdivide the subject site into two lots. The existing one-family dwelling on proposed lot 2.01 would remain with no changes. A side by side duplex two family dwelling would be constructed on proposed lot 2.02. Lot 2.01 has two pre-existing variance conditions, front yard and side yard setbacks which would remain unchanged. Lot 2.02 would require a variance for rear yard setback of 20 feet where 25 feet is required as well as steep slope variances. In addition, a variance is required for the length of the wall in the front yard of Lot 2.02.

   Mr. Rigg also discussed several waivers required for approval of the application. He indicated that the applicant cannot meet the requirement for the distance between the proposed driveway for lot 2.02 and the existing driveway to the north. The applicant does not propose to dedicate additional width along Outlook Avenue for road widening and Mr. Rigg advised the Board that in his opinion, based on the grade involved, the road would never be extended to its full length. Mr. Kelly had no objection to the applicant providing two foot contour lines rather than one foot as specified in the checklist. Mr. Rigg stated that the plan provides for two garages and driveways for the proposed new dwelling, which conforms to Borough parking requirements. Mr. Kelly advised the Board that the drainage calculations submitted by Mr. Rigg are satisfactory and that percolation tests can be performed at the time of construction.

   Based on the amount of soil proposed to be moved, the applicant submitted a soil movement application which requires a public hearing in conjunction with the subdivision application. Mr. Rigg testified that approximately 2000 cubic yards of soil would be exported from the site with no soil being imported. Mr. Kelly indicated that he had reviewed the soil movement application and concurred with Mr. Rigg's calculations. Mr. Rigg noted that the maximum height of the proposed retaining wall is three feet.

With regard to utilities for the proposed new dwelling, Mr. Rigg advised the Board that gas, electricity and water would be supplied from existing lines on Mazur Place. The sanitary sewer connection would be made on Outlook Avenue and each of the proposed dwelling units would have separate utility connections.

With regard to stormwater/drainage, Mr. Rigg described his proposal for all roof drains to connect to a drywell in the southeast corner of the site, with the driveway flow into existing storm drains on Mazur Place. He stated his opinion that no increase in run off would result from the proposed development.

With regard to steep slope disturbance, Mr. Rigg offered his opinion that although the proposed disturbance is significant, the applicant can meet the conditions of the Borough steep slope ordinance. He noted that the applicant has complied with the requirement that the proposed new lot must contain at least 25% of its area in a non-steep slope condition. The proposed lot will contain 35.6% of its area in a non-steep slope condition.

Mr. Rigg then addressed issues raised in the report submitted by the Hawthorne Environmental Commission. He reiterated that no fill will be brought to the site and the soil will be tested for permeability. The proposed retaining wall will be constructed of dry block or rock with a maximum height of three feet. In addition to an exterior French drain system, the applicant will utilize two six foot by six and one-half foot seepage pits with a capacity of 4000 gallons.

With regard to the required rear yard variance, Mr. Rigg offered his opinion that based on the siting of the proposed dwelling, the 20 foot dimension could be considered as a second sideyard and would not have any negative effect on neighbors or the zone plan and ordinance.

The Board then requested Mr. Kelly's input with regard to Mr. Rigg's testimony. He indicated that he had no objection to the applicant's request for a waiver from the one foot contour line requirement. He stated that the applicant's proposal for compliance with the requirements of the steep slope ordinance was acceptable based on the applicant's drainage design providing for no increase in runoff from the site. He requested that the Board impose as a condition of approval the submission by the applicant of a foundation survey for the proposed dwelling. He concurred with the applicant's soil movement calculations. Since no off-site improvements are required, he indicated that a developer's agreement would not be necessary.

Mr. DeMarco called as his next witness, Fulvio Grosso, the applicant. After being sworn, he testified that he is the contract purchaser of the subject property. He intends to construct the proposed dwelling for his personal use. He indicated that he and his family will occupy one unit and his first cousin will occupy the second unit. If the application is approved, he hopes to begin construction as soon as possible.

Mr. DeMarco called as his next witness, Anthony Giannella. After being sworn, he testified that he and his wife are the present owners of the subject property which is under contract for sale to the applicant. He confirmed that he consented to the filing

of the application by Mr. Grosso and indicated his intention to continue to occupy the existing house on the site.

Mr. DeMarco then concluded his presentation on behalf of the applicant.

The hearing was then opened for public comment. Rayna Laiosa appeared on behalf of the Hawthorne Environmental Commission. The Board thanked her for the written report submitted by the Commission. She directed several questions to Mr. Rigg requesting clarification regarding soil movement and drainage. Linda Missonellie questioned whether the Board was satisfied regarding the protection of downhill neighbors from runoff during construction. Mr. Kelly responded that he would recommend as a condition of approval that the applicant be required to attend a pre-construction meeting to review soil erosion and drainage measures.

The hearing was then closed to further public comments.

Chairman Garner then asked for comments and discussion from Board members during which members indicated that they were willing to approve the application subject to compliance with the requirements of the Board engineer as set forth in his report as well as the conditions discussed during the hearing.

A motion was then made by Ms. DiMattia, seconded by Vice Chairman Lucibello and approved by a vote of 7-0 to grant the application for preliminary major subdivision, bulk variances, waivers and soil movement permit subject to preparation of a memorializing resolution by the Board attorney incorporating the conditions set forth in the report of the Board engineer and put on the record during the hearing.

2. With regard to the application of **The Cornett Family Trust**, Mr. Monaghan reported the receipt of a letter dated June 15, 2011 from Scott B. Piekarsky, Esq., attorney for the applicant advising the Board of the withdrawal of the application. The Board agreed to permit the withdrawal without prejudice.

NEW BUSINESS – None

PUBLIC

The meeting was then opened for public comment without response.

The meeting was then adjourned at 9:35 P.M.

Respectfully submitted,

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