

**MINUTES
TOWNSHIP OF MAHWAH
PLANNING BOARD
REGULAR MEETING OF SEPTEMBER 14, 2009**

OPENING STATEMENT

The combined public/work session meeting of the Planning Board of the Township of Mahwah held at the Municipal Building, 475 Corporate Dr., Mahwah, N.J. was called to order at 7:01 P.M. by Chairman Ross. The Opening Statement was read according to the Sunshine Law followed by the flag salute and roll call.

These minutes are a synopsis of the meeting. A verbatim audio tape recording is on file with the Board Secretary at the Planning Board Office, 475 Corporate Dr., Mahwah, N. J. Copies of the tapes may be purchased for a fee.

PRESENT: Mr. Brotherton, Mr. DaPuzzo, Mayor Martel, Mr. Jandris, Dr. Ross, Mr. Spiech, Mr. Crean, Mr. Rudolph, Mr. Donigian (arrived 7:56 P.M.), Mr. Sherer (arrived 7:10 P.M.) and Mr. Williams (arrived 7:50 P.M.).

ALSO IN ATTENDANCE WERE BOARD PROFESSIONALS:

Planning Board Attorney, Peter J. Scandariato, Esq., Township Engineering Consultant, Michael J. Kelly, P.E. and Planning Consultant, Joseph Burgis, and P.P.

APPROVAL OF BILLS

| | | |
|---|----------------------------|-------------------|
| <u>8/10/09 Meeting Attendance</u> | Peter J. Scandariato, Esq. | \$200.00 |
| <u>Period-July 2009</u> | Phillips Nizer, LLP | \$1,579.50 |
| <u>7/13/09;8/10/09 Meeting Attendance</u> | Burgis Associates, Inc. | \$400.00 |

A motion to approve the bills was made by Mr. DaPuzzo and seconded by Mr. Crean. A voice vote of "aye" was heard from all Board members.

MINUTES FOR APPROVAL:

Minutes of June 8, 2009

A motion to approve the minutes as submitted was made by Mr. DaPuzzo and seconded by Mr. Spiech. A voice vote of "aye" was heard from all eligible board members.

Minutes of July 13, 2009-

There was one minor correction to the minutes. Mr. Kelly commented that on Page Two for Short Line Bus Tours, the applicant was approved for a structure of 8' x 10' (80 S.F.) not 800 square feet. There were no other changes or additions to the minutes. A motion to approve the minutes as corrected was made by Mr. DaPuzzo and seconded by Mr. Spiech. A voice vote of "aye" was heard from all eligible board members.

Minutes of August 10, 2009

A motion to approve the minutes as submitted was made by Mr. DaPuzzo and seconded by Mr. Rudolph. A voice vote of "aye" was heard from all eligible board members.

RESOLUTIONS FOR MEMORIALIZATION:

A motion to adopt the resolutions was made by Mr. DaPuzzo and seconded by Mr. Brotherton. Motion to waive the reading of the resolutions was made by Mr. Jandris, seconded by Mr. DaPuzzo.

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A roll call was requested and recorded for each resolution.

Dkt. #459-(A-2)- Resolution approving the Application of **KKTT Restaurant Corp., T/A Roxanne's Restaurant** for Amended Preliminary and Final Site Plan Application with requested Waiver Relief on property located at Block 71, Lot 6, 150 Franklin Turnpike for adoption.

Roll call vote of eligible members showed the following: Messrs. Brotherton, DaPuzzo, Jandris and Rudolph voting "aye". Abstained: Mayor Martel, Dr. Ross, Mr. Spiech and Mr. Crean. Absent: Mr. Donigian, Mr. Sherer and Mr. Williams.

#TA09-0010- Resolution approving the Tenant Application of **Franklin 711, LLC**, on property located at Block 69, Lots 1, 2 and 3, 17 Franklin Turnpike for adoption.

Roll call vote of eligible members showed the following: Messrs. Brotherton, Jandris, Martel, Spiech and Rudolph voting "aye". Abstained: Mr. DaPuzzo, Dr. Ross and Mr. Crean. Absent: Mr. Donigian, Mr. Sherer and Mr. Williams.

#TA09-0011- Resolution **granting** the Tenant Application of **Two Letters, LLC (T/A Nonna's Pizza)**, on property located at Block 69, Lots 1, 2 and 3, 17 Franklin Turnpike for adoption.

Roll call vote of eligible members showed the following: Messrs. Brotherton, Jandris, Martel, Spiech and Rudolph voting "aye". Abstained: Mr. DaPuzzo, Dr. Ross and Mr. Crean. Absent: Mr. Donigian, Mr. Sherer and Mr. Williams.

#TA09-0012- Resolution **granting** the Tenant Application of **Jae S. Cha, d/b/a Biz E Bee Cleaners**, on property located at Block 69, Lots 1, 2 and 3, 17 Franklin Turnpike for adoption.

Roll call vote of eligible members showed the following: Messrs. Brotherton, Jandris, Martel, Spiech and Rudolph voting "aye". Abstained: Mr. DaPuzzo, Dr. Ross and Mr. Crean, Absent: Mr. Donigian, Mr. Sherer and Mr. Williams.

Ordinance No. 1653- Resolution of the Township of Mahwah Planning Board review and recommendation of proposed amendment to the Zoning Ordinance of the Township of Mahwah.

A motion to adopt the resolution was made by Mr. Brotherton and seconded by Mr. Rudolph. Motion to waive the reading of the resolution was made by Mr. Brotherton, seconded by Mr. Rudolph.

Roll call vote showed the following: Messrs. Brotherton, Martel, Spiech and Rudolph voting "aye". Abstain: Mr. DaPuzzo, Mr. Jandris, Dr. Ross and Mr. Crean. Absent: Mr. Donigian, Mr. Sherer and Mr. Williams.

OPEN TO THE PUBLIC – 15 MINUTES

A motion to open the meeting to the public was made by Mr. Spiech and seconded by Mr. DaPuzzo.

None were received.

A motion to close the meeting to the public was made by Mr. DaPuzzo, motion seconded by Mr. Spiech. All voted in favor.

Chairman Ross announced the board will continue with the public hearing from July 13, 2009 in the matter of the Application of George & Deborah Kayal, Bayval Corp. and Laurmark Corp. for Preliminary and Final Major Subdivision Approval and Soil Movement Permit Application, property located at Wyckoff Avenue and Skytop Drive, known as Block 153, Lots 1, 2, 2.01 & 3.

PUBLIC HEARINGS

OLD BUSINESS- CONTINUATION OF PUBLIC HEARING FROM JULY 13, 2009

Dkt. #521- Application of **George & Deborah Kayal, Bayval Corp. and Laurmark Corp.** for Preliminary and Final Major Subdivision Approval and Soil Movement Permit Application, property located at Wyckoff Avenue and Skytop Drive, known as Block 153, Lots 1, 2, 2.01 & 3. The board carried the proceedings on the application from the August 10, 2009 meeting at the applicant's request.

Mr. Jandris recused himself from the proceedings.

Mr. Robert J. Inglima, Jr., Attorney at Law represented the applicants, George & Deborah Kayal, Bayval Corp. and Laurmark Corp with respect to the major subdivision application that is before the board. He recalled at the last meeting on July 13, 2009, the applicant had submitted testimony from Mr. McGowan, the project engineer. In the intervening period, he has submitted to Mr. Scandariato, as attorney for the Planning Board, a letter and exhibits that were described in the letter that addressed an issue that had been raised during Mr. McGowan's testimony with respect to the status of Lot 2.01 in Block 153 which had been referred to at various times as or as part of Division Place in Mahwah. He also provided a copy of the letter and the exhibits to Mr. D'Anton who has made an appearance in this matter as an attorney representing various interested parties in the area of this site. The letter in question which was dated September 10, 2009 was accompanied by a copy of Ordinance #254 of the Township of Mahwah that was adopted on March 22, 1962. That ordinance vacated all streets and public rights-of-way that have been formerly shown on a subdivision plat approved back in 1928. The reason for the street vacation ordinance was that the old map reflected a development plan for the area around his client's property both in Ramsey and in Mahwah that was never constructed. There were streets and lots shown on that map that were never developed, notwithstanding the fact that the map had been filed back in 1928 with the County Clerk.

In 1961 and 1962, development approvals were granted with respect to a new subdivision in that area called White Birch Estates. That subdivision was responsible for the creation of Birch Road, Skytop Drive, Beech Drive, Dogwood Court and a number of other streets that served the area located in Mahwah, aligned to the south and east from the applicants' property. In conjunction with the approval of the White Birch Estates plan which was perfected by the filing of three separate maps in three phases for the subdivision. By virtue of that subdivision and the perfection of same, the Township of Mahwah adopted Ordinance #254. And the essence of that ordinance is to say that anything that was involved with the prior 1928 subdivision streets, etc. they're all vacated and what is shown on the White Birch Estates plans is now substituted in their place. Most important among these plans are the plans for Phase 2 which was filed with the Bergen County Clerk on November 7, 1962 as filed Map 5925. In Section 2 the northern sections of Skytop Drive, its connection to Clarana Street in Ramsey, Stone Fence Road, those streets were formerly dedicated and the lots that are located on those streets were subdivided. Consistent with the street vacation ordinance from the 1928 development there are no other streets shown in the area of his client's site on the Section 2 map other than Skytop Drive, Stone Fence Road, Birch Road and Clarana Street.

He has submitted copies of all of the plans to Mr. Scandariato for his review and to Mr. D'Anton. He believed that the ordinance in question and plans resolved any issues that might have been raised previously with respect to the status of areas of his client's property that may have been labeled Division Place in the past and resolved the question of whether or not Division Place exists today.

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Mr. DaPuzzo asked when did all of the paperwork get submitted to Mr. Scandariato. Mr. Inglima stated the paperwork was delivered on Friday. He did not want to submit the paperwork directly to the board until Mr. Scandariato had an opportunity to review it. Mr. Scandariato felt the board should have an opportunity to review the materials. Mr. Inglima stated the applicant's planner was unavailable for tonight's meeting so they are going to have to ask the planner to come back at the next available meeting date.

Mr. D'Anton gave his comments on Mr. Inglima's submission pertaining to Ordinance #254 and the question of title with regard to Division Place. He asked to have the opportunity in the future to submit additional information on this issue.

Mr. D'Anton in his remarks suggested to the board that in order for his clients and the public to better understand the board's procedures and public hearing process that the applicant be directed to produce specific plans that reflect what the applicant wants to do.

Mr. Inglima requested that Mr. D'Anton identify his clients. At the last meeting, Mr. D'Anton indicated that he was going to submit a revised list of his clients. For the record, Mr. D'Anton confirmed that neither the Sandusky's nor the DePinto's are his clients.

Mr. Scandariato asked Mr. Kelly if there are any revisions that are needed to be made to the plans.

Mr. Kelly stated a lot of the comments that were made and agreed upon do require revised plans.

Mr. Inglima confirmed the board would be getting revisions to the plans. He stated the board has complete plans that comply with the township ordinances of the municipality in terms of the requisite detail to have a public hearing on the application. He indicated the hearing would not be concluded this evening and there will be a month before the next meeting. If the applicant deems that at this point they got a better idea of what exactly the plan is going to show then the revisions will follow immediately. If they are going to have to go through another hearing before the applicant knows exactly what the final plan will be they will make the revisions then. Mr. D'Anton and any other members of the public will have an opportunity to ask questions about those revisions.

Mayor Martel asked Mr. Inglima if he can provide a list of revisions that will appear in the next set of revised plans. Mr. Inglima believed that most of the items were engineering issues and could be addressed by Mr. McGowan from an engineering standpoint. Mr. McGowan can explain to the board where they stand on those various issues that have been identified. At this point, the only planning type of revision for the plans that are contemplated right now is the creation of the strip of land that the board had identified along the north side of the proposed street which would eliminate the possibility of two front yards being created on the lots on Sycamore. That would be a narrow strip of land would be attached to the last lot on the cul-de-sac, so it basically wraps around the north end of the street.

Mr. Spiech asked the applicant's attorney who would be addressing the comments in the September 2, 2009 report from Malcolm Pirnie. Mr. Inglima will have Mr. McGowan address the Malcolm Pirnie report after Mr. Simoff's traffic testimony.

At this point, Mr. Inglima asked to have a number of documents marked for identification.

| <u>Exhibit</u> | <u>Description</u> | <u>Date</u> |
|-----------------------|--|--------------------|
| A-46 | Inglima 9/10/09 letter to Peter Scandariato, Esq. | 9/14/09 |

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- A-47 Copy of Ordinance #254- adopted on March 22, 1962 9/14/09**
- A-48 File Map 2432 – Ramsey Manor Subdivision Plat 9/14/09
Filed on June 30, 1928 with the Bergen County Clerk**
- A-49 Final Subdivision Plat-Section 1, White Birch Estates 9/14/09
File Map 5781, Filed with the Bergen County Clerk
on January 4, 1962**
- A-50 Final Subdivision Plat-Section 2, White Birch Estates 9/14/09
File Map 5925, Filed with the Bergen County Clerk
on November 7, 1962**
- A-51 Final Subdivision Plat-Section #3, White Birch Estates that
was approved by the Borough of Ramsey for the property 9/14/09
on Skytop Drive and Clarana that is in Ramsey. This is filed
Map 6060 with the Bergen County Clerk on August 22, 1963.**

Mr. Inglima called on Mr. Diaz who was previously sworn and testified in this matter. Mr. Diaz was still under oath. Mr. Diaz identified Exhibits A-48, A-49, A-50 and A-51 and represented to the board that all the maps are true copies that he received from the Bergen County Clerk's Office in the course of his research and preparation of the subdivision plat that is the subject of this application.

Mr. Inglima asked Mr. Diaz to formally identify the document marked as Exhibit A-52 that had been submitted as part of the application to the board before the last meeting held in July. This was a revision to the subdivision plat that was necessary in order to indicate his approval of the subdivision plat, his signature block and his work on the plan itself.

| <u>Exhibit</u> | <u>Description</u> | <u>Date</u> |
|-----------------------|--|--------------------|
| A-52 | Sheet C3, Subdivision Plan dated January 22, 2009 revised in revision #1 as of July 1, 2009 | 9/14/09 |

Mr. Inglima will provide 15 copies of the various filed maps to the board for the next meeting.

There were no questions from the board for the witness.

Mr. D'Anton began his re-cross examination of Mr. Diaz.

There were no questions from the public for the witness.

Mr. Inglima called his next witness, Mr. Hal Simoff a licensed professional engineer and licensed professional planner in the State of New Jersey. Mr. Scandariato swore in Mr. Simoff. After giving his educational and professional background, the board recognized Mr. Simoff as an expert in the field of traffic engineering and traffic planning.

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Mr. Simoff testified he was retained by the applicants to analyze the subdivision plat for the property that is the subject of this application and to provide an analysis of the traffic conditions of the area, perform counts and to render an opinion with respect to the impact of the subdivision on the adjacent streets.

Mr. Inglima asked that the following documents be marked for identification.

| <u>Exhibit</u> | <u>Description</u> | <u>Date</u> |
|-----------------------|---|--------------------|
| A-53 | Mr. Simoff's Curriculum Vitae | 9/14/09 |
| A-54 | Simoff's Report giving the Trip Generation Calculations dated September 11, 2009 | 9/14/09 |

The board requested that in the future the applicant provide their professionals report ahead of time to give the board an opportunity to review the report in preparation for the hearing.

Mr. Williams arrived at 7:50 P.M.

Mr. Simoff testified with respect to traffic issues that affect the site. He reviewed the first page of his report which is a calculation of what five dwelling units of single family detached housing generates. The second page of his report is the same calculations for two dwelling units. The third page is a traffic count that was on the New Jersey DOT's data base that gives the two way volume on Wyckoff Avenue, between Fardale and Forest. He used these numbers to get an order of magnitude of the traffic volumes that they can expect on Wyckoff Avenue in front of the site.

Mr. Donigian arrived at 7:56 P.M.

Mr. Simoff's firm conducted traffic counts on the 10th of September between the hours of 7:00 and 9:00 A.M. His firm analyzed it as a three legged intersection with Skytop being southbound and northbound and with the pointing arrow being westbound. The numbers presented are very low. There were 12 vehicles traversing the intersection of all three directions. From 8:00 to 9:00 A.M. there were 11 vehicles traversing the intersection in three directions.

He continued testifying that the first sheet of the traffic analysis report indicates the traffic that would be created by the five homes that would be located on the proposed new street. He characterized the volumes that would be generated in a 24 hour period. In the daytime, on a day time basis they would have 48 movements and on Saturday, it would be 50. When he did his traffic counts at Skytop, he used those numbers to evaluate what the percentage of north and southbound traffic would be. And based on those traffic counts, he assumed the same percentage of traffic would be north and south on this site which is probably the best planning tool that they have.

The study showed 60 percent of the traffic would be making a right turn out of the site and about 40 percent would be making a left turn out of the site to go north. And that matches what they found in the neighborhood. In conclusion, there would be an increase of about 10 percent.

Mr. Simoff further characterized these traffic volumes in relation to the roadway system itself and its ability and its capacity for movements. Putting the numbers in perspective, it is a very low intensity and it is an unnoticeable volume of traffic. In his professional opinion, both the existing and the proposed levels of service, on that section of Skytop Drive and at the intersection with Clarana will function at a Level of Service A.

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He further stated that there will not be any degradation in the level of service as a result of adding five single family homes on the proposed roadway and having it intersect with Skytop as shown on the subdivision plat.

Mr. Simoff gave his impressions with respect to the visibility along the roadways as a result of the site inspection he conducted of the area of the applicant's site and the roadways that he has been describing. Skytop Drive is south of the site and is straight and level. The sight distances and the geometry of the road are not a problem.

He also felt that the sight distance that will be provided, after the development is completed, will be sufficient to provide for safe movements of vehicles at the intersection, not only for the cars going into and coming out of the new street but also for vehicles moving in a through fashion, through movement on Skytop. He also reviewed the applicants' plan with respect to the proposed geometry of the roadway and he determined that there were no problems with the design functionally.

Mr. Inglima asked Mr. Simoff if the movement of the cart way or the roadway several feet to the south to accommodate a planted strip along the north side of the proposed new street would have any impact on his findings or conclusions with respect to visibility or geometry of the intersection.

Mr. Simoff stated in his opinion that moving it a few feet to the south would not affect the sight distance; you could still be able to see within the right-of-way of Skytop to the east. Also, he did not feel it would impair any movements at the intersection or create any problems for vehicles entering or exiting the proposed roadway.

He identified the waivers being requested by the applicant from design standards of the municipality with respect to the intersection. In his professional opinion, he believed those waivers can be granted without any negative impact.

Mr. DaPuzzo had several questions for the witness.

Mr. Kelly commented that he would like to review the documentation that was submitted and have the opportunity to cross-examine Mr. Simoff at a future meeting. Mr. D'Anton agreed with Mr. Kelly and asked to have the same opportunity.

There were no further questions for the witness.

Mr. Inglima recalled Mr. McGowan who was previously sworn and testified in this matter and continued to be under oath.

Mr. McGowan testified that since the date of the last hearing, he had an opportunity to address the engineering issues with respect to the design of utilities at the site. He pointed out one of the main issues that the Board was concerned about was the available fire flow of the existing water supply system in the area, specifically on Skytop. Malcolm Pirnie, the Township's water and sewer consultant had determined that they did not think there was sufficient fire flow. He met with Justin Mann of Malcolm Pirnie to discuss that issue and possible solutions. Mr. McGowan suggested an analysis of the existing system. The applicant also requested that an analysis be conducted.

Mr. McGowan referred to the September 2, 2009 letter from Justin Mann of Malcolm Pirnie and addressed all of the comments raised in that letter. He brought up another issue concerning the existing water main on Wyckoff Avenue. Justin Mann confirmed that there is an existing small water main estimated to be one and a half to two inches in diameter, somewhat of an antiquated water main which was installed somewhere in the order of 80 plus years ago.

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And that comes from the Ramsey water system up Wyckoff Avenue on a route that, as far as he knows, no one is exactly really sure where it goes and serves. He'll estimate roughly somewhere in the order of eight homes.

He obtained the specifics from Malcolm Pirnie that the Township had approved a sewer improvement on Wyckoff Avenue as part of a Sewer Master Plan and construction had actually begun to run from the Parslow/Wyckoff intersection north towards the Ramsey border to be able to put those homes that are on Wyckoff Avenue on sewer. The construction had started and his estimation was approximately 75 feet of that sewer main was installed before it was revealed that these homes are on this antiquated water main.

In discussing it with Justin Mann, the idea of looping the system, fire flow aside, seemed to solve the issue of those homes now have a water main that they would be able to tie into, the homes that are currently tied into a private water main and would allow the continuation of the sewer construction that was stopped after 75 feet. They extended the water main out to Wyckoff as just a smart planning water supply. In his opinion, this would help solve several of the issues and it seemed like a good utility planning effort.

Following the board's discussion, Mr. Inglima was asked if he was satisfied with the information provided in the September 2, 2009 letter from Malcolm Pirnie. Mr. Inglima felt they needed to ask for more information based on the board's discussion and questions.

Mr. Kelly commented that it was clear that the Board has a concern about the fire flow in the area. At this point, the board could direct Malcolm Pirnie to do further analysis based on the applicant being before the board at this time to determine what the optimum solution would be.

Mr. Inglima agreed that if Malcolm Pirnie can perform a more detailed analysis or come up with a more precise set of recommendations, then that would put everyone in a better position and would allow the applicant to request a waiver, if required.

Chairman Ross asked if the public had any questions for the witness.

Mr. Steve Tsotsoros, 600 Wyckoff Avenue appeared to question the witness on his testimony.

There were no further questions from the public.

Mr. Inglima asked that the application be carried to the next meeting of the Board.

Chairman Ross announced that this hearing will continue on October 12, 2009.

WORK SESSION:

A. COMMITTEE REPORTS

1) NEW BUSINESS

Highlands Plan Conformance-Mr. Burgis recalled that at a previous meeting he informed the board that they had a deadline of October 1, 2009 to hold a public meeting on the preparation of the housing plan consistent with the Highlands regulations. COAH has extended Mahwah's housing plan deadline to June of 2010. Mr. Burgis reported he is in the process of completing a matrix to help the board review all the information they submitted to date on the plan conformance series because the township still has the December 8, 2009 deadline to decide whether or not the township wants to opt in on the Highlands regulations governing the planning area portion of the municipality.

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He suggested the board set some time aside at the October meeting to discuss that so the board can make a recommendation to the governing body, because sometime in the month of November or early December the township has to make a final decision no later than December 8, 2009 and file the decision with the Highlands.

2) OTHER BUSINESS

None to present

There being no further business, a motion to adjourn was made by Mr. Brotherton, seconded by Mr. Rudolph. The meeting was adjourned at 8:45 P.M. All voted in favor.

Respectfully submitted,

Patricia A. Puorro
Administrative Officer