

Newton Planning Board
August 15, 2012
7:00 PM

The regular meeting of the Newton Planning Board took place on the above date. Chairman Le Frois read the Open Public Meetings Act and requested Mrs. Citterbart to call the roll. Board Secretary Mrs. Citterbart stated there was a quorum.

OATH OF OFFICE

David Steinberg (Alt. 3)

FLAG SALUTE

MEMBERS PRESENT: Mr. Torre, Mrs. Mattingly, Mr. Flaherty, Mr. Tharp, Mr. Russo, Mr. Hardmeyer, Mr. Steinberg and Chairman Le Frois

EXCUSED: Mr. Marion, Mrs. Diglio, Mr. Ricciardo, Ms. Logan

PROFESSIONALS PRESENT: David Soloway, Esq., Board Attorney, of Vogel, Chait, Collins & Schneider, David Simmons, Board Engineer, of Harold Pellow & Associates, Jessica Caldwell, P.P. of J. Caldwell & Associates, Paul W. Ferriero, PE, CME, Acting Engineer, Gary W. Dean, PE, PP of Dolan & Dean

BOARD SECRETARY: Kathy Citterbart

CONSIDERATION OF MINUTES

July 18, 2012, Regular Meeting

Mr. Tharp made a motion to approve the July 18, 2012 minutes. Mr. Torre seconded the motion.

AYE: Mr. Torre, Mrs. Mattingly, Mr. Tharp, Mr. Hardmeyer, Chairman Le Frois

Mr. Hardmeyer asked: At the last meeting, we had a lengthy discussion on whether the Tree Protection Ordinance was in effect, what did we find out?

Mr. Soloway stated: No ordinance has been adopted as of yet.

Mr. Russo stated: I emailed information to you. We are waiting to hear back from the Shade Tree Commission.

EXECUTIVE SESSION

July 18, 2012

Mr. Torre made a motion to approve the minutes from the Executive Session. Mr. Tharp seconded the motion.

AYE: Mr. Torre, Mrs. Mattingly, Mr. Tharp, Mr. Hardmeyer, Chairman Le Frois

HISTORIC RESOLUTIONS:

None

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PLANNING BOARD RESOLUTIONS

None

OLD BUSINESS

**Robert Occhifinto (#PSPV-05-2012) Carried to Sept. 19, 2012 at 7 PM w/no further notice
Block 20.02 Lot 1
42 Hicks Avenue**

The applicant is requesting preliminary site plan approval and variances for construction of two (2) warehouse structures with loading docks and on-site parking lot.

NEW BUSINESS

**Merriam Gateway Redevelopment Plan Amendment
Block 18.03, Lot 10
(Former Block 1104, Lot 22)
Block 22.02, Lots 8, 9, and 10
(Former Block 1209, Lots 10, 11, and 12.01)
Block 18.02, Lots 9, 10, 11, 12, 14, 15, 16, and 17
(Former Block 1301, Lots 1, 1.04, 10, 11, 12, 13, 14, 15 and 16)
Block 22.04, Lots 1, 2, 3, 4, 5, 13, 14 and 15
(Former Block 1308, Lots 1, 1.01, 1.02, 10, 11, 12, 13 and 14)**

Mr. Soloway stated: This proposed amendment is for the Board to review the consistency with the Master Plan. The Board also has the task of raising any other matters they deem appropriate in the same matter they would a zoning ordinance amendment.

Jessica Caldwell of J. Caldwell Associates addressed the Board regarding the amendment for the Redevelopment Plan that was adopted in November, 2010. It is for the Merriam Gateway which actually is a rehabilitation area and not a redevelopment area. It is part of the Town's rehabilitation area and the Town felt it would benefit from a Redevelopment Plan. This Plan should have the ability to meet the changing needs of market demand, the Town of Newton and its citizens. Amendments may be required in order to accommodate these changes. As noted previously, the amendments proposed are required to create better consistency between graphic depictions and the bulk requirements of the Plan. For this reason, the proposed Plan Amendments continue to further the stated goals of the Plan, the goals of the Town of Newton Master Plan and State Development and Redevelopment Plan. After looking into trying to implement the Redevelopment Plan and working with a developer on part of this site, we found that some of the bulk standards did not align with some of the conceptual plans and cannot be implemented as we thought. The main concern was a density issue on Sub Area A. We looked at all the bulk requirements to see what can be loosened up and implement the Conceptual Plan as proposed.

Mr. Torre asked: The adjustments that you made were they with a particular developer in mind or is it just to attract development?

Ms. Caldwell stated: We had a particular developer in mind. The intention was always to permit that development.

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There were questions from the Board and Ms. Caldwell answered them.

Mr. Soloway read the proposed resolution that has been drafted.

Chairman Le Frois opened this portion of the meeting up to the public. With no public stepping forward Chairman Le Frois closed the public portion.

Mr. Torre made a motion to approve the Resolution. Mr. Mattingly seconded the motion.

AYE: Mr. Torre, Mrs. Mattingly, Mr. Flaherty, Mr. Tharp, Mr. Russo, Mr. Hardmeyer, Chairman Le Frois

Abstained: Mr. Steinberg

Anwar Qarmout (#PBSPV-06-2012)
Block 8.08 Lot 34
16 Washington Street

The applicant is requesting a variance for front yard parking.

SWORN: George Gloede, of G. Gloede Associates Engineer, Anwar Qarmout, Property Owner

Mr. Gloede gave his qualifications and the Board accepted them.

Mr. Gloede gave a brief overview of what is being proposed. It is single-family residence. The lot is 25 ½ feet wide which puts the building narrow and because of that there is no access to the rear-yard portion of the property. We are requesting a driveway be constructed in the front yard. In order to construct the driveway, a portion of the front porch of the building will need to be removed. The steps and sidewalk will remain. We would be constructing the driveway, new granite block curb and a paved driveway up to the front of the building. It is within the front 1/3 of the property, we would need a variance to construct the driveway in that location.

Chairman Le Frois asked: Will the driveway be cement concrete or asphalt concrete?

Mr. Gloede stated: Currently we are showing it being paved with asphalt.

Chairman Le Frois asked: Are there similar driveways in the area?

Mr. Gloede stated: Yes. Exhibit A1, 13 photos of driveways in the front yards of residential properties, dated August 15, 2012 in the area is presented.

Mr. Qarmout stated: If Mr. Simmons can recall there is one that is across the street from us. There are a few on Adams Street. There is a house right passed the Style Shop that has a driveway facing the front and one where it goes to a car port. These are all within ½ mile from this property. There are about 30 that I constructed the survey on but I only showed 13 so I wouldn't bombard you with all these pictures.

Mr. Hardmeyer asked: How old is the house?

Mr. Qarmout stated: I am really not sure.

Chairman Le Frois asked: Where do the tenants park?

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Mr. Qarmout stated: You cannot park in the street. There is a Municipal Lot they can park in. They have limited night passes. The only other place is the Jewish Center. They already provide parking for the neighborhood.

Mr. Soloway stated: It is true to your knowledge that the Town of Newton's Ordinance prohibits parking on any street between 4 AM and 6 AM?

Mr. Qarmout stated: I believe that is correct. I do not believe there are any signs on that street.

Mr. Soloway stated: You cannot park overnight.

Chairman Le Frois stated: I would think the winter would be an inconvenience.

Mr. Qarmout stated: My concern, as we approach winter would be with the Jewish Center parking lot, is they have a guy who plows and he is not going to come every time a tenant moves so it is going to be inconvenient to park there and then have to plow yourself out.

Chairman Le Frois asked: Would the parking be for one vehicle?

Mr. Qarmout stated: Yes. The primary vehicle would park in the driveway and a secondary vehicle can use the Jewish Center.

Chairman Le Frois asked: Is the length of the driveway sufficient to keep the car safely off the sidewalk and the road?

Mr. Gloede stated: Yes it is. It will have to go right up to the front of the property. That is why we need to take a portion of the porch off.

Chairman Le Frois asked: Is there a plan for the house that snow would never be piled up in front of the house. You would have to make sure you push it to the side.

Mr. Qarmout stated: Correct.

Mr. Hardmeyer asked: Did you contact the Fire Official?

Mr. Qarmout stated: No.

Mr. Gloede described the color photo showing the existing front of the house and a portion of the side and showing the lattice work on the porch. The 2nd one shows the same view but showing a portion of the porch being removed and showing the lattice of how it will go back on.

Mr. Simmons stated: One thing the applicant may want to consider is not necessarily a bollard because of the residential look but a concrete wheel stop. So the driver can feel the wheels hitting the wheel stop so they know when to stop.

Mr. Simmons read from his August 9, 2012 report. He stated: The applicant is proposing to remove approximately two-thirds of the existing front porch on the existing dwelling on the lot captioned above and reconstruct the remaining one-third of the porch to serve as the front entrance. The above work is being proposed to create additional area in the front yard for the

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applicant to construct one (1) 9' x 20' paved parking space. The subject property is located in the T-5 Transect Zone- Neighborhood Core, and single-family dwellings are a permitted use. Under the Zoning section of my report, the following 3 variances are needed for the proposed parking space: Under the new Ordinance Section 320-9.C- Uncovered parking spaces are allowed in the "third layer", and the Applicant is proposing the parking space within the first layer. My interpretation of the ordinance is the uncovered parking spaces in an open area are allowing the third layer of the back part of the property. In this case they are proposing the front layer therefore it is a variance because they are not in a garage. Section 320-9.B – Front yard setback is required to be 2 feet minimum, 12 feet maximum. The existing dwelling, after the front porch is partially removed, is 20 feet plus or minus from the right-of-way line and 23.45 feet from the front property line. This property doesn't fit into these guidelines so I called it out as a variance. Section 320-23.C – calls for surface parking areas to be located to the side or rear of uses and be screened from visual access by the street or sidewalk. The section also calls for screening from adjacent residential lots by board-on-board privacy fencing or by landscape screening. The proposed parking space is in the front yard, and no screening has been proposed.

Mr. Gloede stated: I would not want to put a fence up. The lot is as narrow as it is. If you start putting up a fence in the front, it might create a tunnel effect.

Mr. Hardmeyer suggested landscaping.

Mr. Qarmont stated: The problem with the landscaping would be that it would hinder the front doors from opening.

Mr. Simmons continued with the Site Plan part of his report. Item D, The depth to the top of the service should be confirmed with the Water Department, and the service lowered if required, in order to help prevent a frozen water service line. Approvals will be required from the Newton Water and Sewer Department, Newton Construction Official, Newton DPW and the Fire Marshall.

Mr. Gloede stated: We do not have any objections to revising the plans to items a, b, c and d and the approvals.

Chairman Le Frois opened up this portion of the application to the public. With no public stepping forward, this portion is closed.

Mr. Flaherty made a motion to approve the three c Variances based on hardship for parking. Mr. Russo seconded the motion.

AYE: Mr. Torre, Mr. Flaherty, Mr. Tharp, Mr. Russo, Mr. Hardmeyer, Mr. Steinberg, Chairman Le Frois

Martorana Enterprises, LLC #SPMSV-07-2012)
Block 22.05, Lot 13
104 Sparta Avenue
Formerly: Block 1201, Lots 5 & 5.03
100-110 Sparta Avenue

The applicant is requesting to construct 54 townhouses and six (6) low and moderate income apartments.

Mr. Hardmeyer recused himself as he is within 200ft of the subject property.

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Anthony Fiorello, Esq. representing Martarana Enterprises, LLC.

SWORN: Lisa Fairclough, Realtor, Thomas Donahue, PE, Donahue Engineering, Mr. Gregg Martorana, Mr. Tomasz Rybek, AIA, and Mr. Karl Pehnke, PE of Langan Engineering.

Chairman Le Frois recommended acceptance of all professionals. All the licenses are current.

Mr. Soloway stated: When the applicant appeared before the Technical Review Committee (TRC) last month, the application was deemed incomplete. I understand that the requested open items have been satisfied. For completeness purposes, the application is deemed complete.

This application, in less detail, was before the Board earlier this spring. In June the Board adopted a Resolution granting the applicant a Use Variance to permit 54 townhomes on the rear portion of this property, to permit the conversion of the existing office building at the front portion to the Community Center with a townhome development on the first floor and six low/moderate income apartments on the upper floors with the back portion of that structure to be demolished and for a Density Variance pursuant to section 40:55D-70d(5) of the Land Use Law to allow a density of 7.66 units per acre in lieu of the 4.84 units per acre. The variance relief was granted and it also extended to section 320-29H of the Ordinance. They are required to have 20 percent of the units be affordable which will be 11 and the Board previously approved six. If the Use Variance is obtained, the applicant is required to obtain subsequent site plan or subdivision approval. In this case, both subdivision and site plan approvals are sought. The subdivision is technically a major subdivision even though it is only two lots. Under the new ordinance, in order to qualify as a minor subdivision, the subdivision needs to be variance free. There is a bulk variance associated with this subdivision. The other thing the Board should keep in mind, even though the Use Variance was granted, the negative criteria that needs to be satisfied is attached to the subsequent site plan and subdivision approval so the Board in order to grant this application has to make a finding that the site plan and subdivision can be granted without substantial detriment to the public good.

I would like to mention this is a new, separate hearing, a separate record. The rest of the record on the Use Variance is not part of this application and some of this will be repeated information for the Board. But I do believe the applicant needs to start over from the beginning.

Mr. Fiorello stated: I am here on behalf of Martarana Enterprises, LLC. We started an application process six or seven years ago. This is an application for a preliminary and major subdivision and a preliminary site plan. It relates to property formerly known as Block 1202, Lots 5 and 5.03. The Tax Assessor agrees with our new Block and Lot designations. As respect to the townhomes, there will be qualifiers later to be seen when we file our final site plan. In March of 2010, the applicant received approval for about 40,000 sq. feet of retail consisting of two buildings, one 12,000 sq. feet and one 28,000 sq. feet. The property consists of almost 10 acres.

The front three acres were developed with a retail shopping center, laundry mat, food store and a restaurant. They have existed for quite some time. A little bit further up Sparta Avenue, there is an office building and to the rear of that is a mini storage facility. To the back of that is a warehouse facility. The bulk of the property was a seven acre tract immediately to the rear.

That was seven acres of the total 10 acres and it was vacant. Subject to the approvals of 2010, the developer and Mr. Martarana determined he would build a conforming application with retail. Shortly after that application was approved, many of the neighbors approached him and

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indicated they would like him to consider townhouses because the placing of commercial right next to the significant residential district that borders the rear of this property and the right side of the property are all single family in character. Mr. Martarana considered it and then brought this application consisting of townhouses to the Board and was approved by a Use Variance.

Mr. Fiorello started his questioning of Mr. Martarana.

Mr. Martarana stated: About a year ago after being approached by many neighbors in the area requesting the possibility of changing the use from the strip mall to townhomes. I did not entertain the idea at first but then I started looking into it and I decided I would change it.

Mr. Fiorello stated: Is it correct you got approval in 2010 to develop the back seven acre piece with two retail buildings, one 12,000 sq. feet and one 28,000 sq. feet?

Mr. Martarana stated: Yes.

Mr. Fiorello stated: And that approval which is part of the record consisted of those two buildings and the rest of the seven acres was for parking and lighting?

Mr. Martarana stated: Yes.

Mr. Fiorello stated: Is it correct there were also issues relating to the traffic due to the traffic counts that were addressed in the resolution?

Mr. Martarana stated: Yes.

Mr. Fiorello asked: As a result of the overtures made to you, you brought this application for townhouses together with 6 low to middle income housing units in the front building?

Mr. Martarana stated: Yes.

Mr. Fiorello stated: As part of the application, it is your intention to tear down and raze the mini storage area and the warehouse behind it?

Mr. Martarana stated: Yes.

Mr. Fiorello stated: That would leave the existing retail center consisting of the Taekwondo Center, laundry mat, Quick Check and Krave. The rear seven acre portions would be located for the 54 townhomes.

Mr. Martarana stated: My idea was to bring it out of industry and give a more country feel to my property.

Mr. Fiorello questions Mr. Donohue, the engineer, and asked him to review the proposed plans.

Mr. Donohue confirmed what was mentioned with Mr. Fiorello's questioning of Mr. Martarana in regard to the layout of the property and what is on the property currently. The front portion which is Building 10 will be converted into a Community Center on the first floor along with low/moderate income housing on the second and third floors. The applicant will enlarge the two driveways that exist. Those will be 25-foot minimum driveways which will enter into and through the retail development to the rear portion where the townhouse development will be. The

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townhouse development will have a looped road system or a circular drive which will consist of a 24-foot wide roadway with off-street parking and access to the townhouse units. Each townhouse unit will have a minimum of one garage space. The end units will have two garage spaces and a driveway which would consist of a parking space in front of each unit, with one space off-street minimum. There will be additional off-street parking areas for visitor parking located throughout the development. Dumpster areas will be spread throughout the development.

The subject property is in the SD-4 zone. We have proposed two lot numbers 13.01 and 13.02. Lot 13.01 will consist of the retail development and Lot 13.02 will consist of the residential portion along with the Community Center and the low/ moderate apartment building.

Lot 13.01 meets most of the zone requirements except for the lot occupation. The lot occupation or coverage is a maximum of 70 percent coverage and the area proposed is at 75.6 percent so a variance is required.

The side yard setback requirement from the proposed lot subdivision line to the side of the existing retail building has a setback of 4.69 feet where 30 feet is a required minimum.

The front and rear setback of that building is in compliance as well as the lot width and the building configuration and stories. The parking calculations for the existing retail building required 38 spaces for the retail and 14 for the restaurant with a total of 52 parking spaces required and 68 spaces are proposed, so we are in compliance for the parking. We are in compliance with the SD-4 zone requirements for Lot 13.02 with the exception of the front yard setback which is Building 10 and has a setback of 26.14 where 30 feet is required as the minimum.

Mr. Fiorello asked: That would then require a variance as a pre-existing structure.

Mr. Donahue stated: That is correct.

Mr. Donahue stated: The other bulk requirements are met or exceeded for the parking. We are in compliance with the low/moderate income housing with the number of bedrooms. We are also proposing a sidewalk connection from that parking area to an adjacent visitor parking space area consisting of seven spaces. This will satisfy the additional parking need for the Community Center use. The parking requirements for the townhouse development are all met with additional off-street parking requirements for 43 spaces.

Mr. Donahue addressed the Sewer and Drainage Plan. The subject property slopes from a Northwest to a North Easterly direction. The site will drain in that same manner. There will be underground infiltration systems to pick up the roof run-off from each one of the townhouse developments. There will also be a stormwater collection system for the roadway drainage. That will all discharge down to an above ground detention basin which will discharge to the existing wetlands transition area. They will require some retaining walls throughout the development to meet the grading requirements to meet existing grade. Stormwater collection areas will discharge out to the Sparta Avenue drainage system.

Mr. Donahue addressed the Lighting plan. There will be light fixtures throughout the residential area. We have provided a point-by-point illumination showing the required Town standard light fixture and required poles.

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Mr. Donahue addressed the Landscape Plan. A landscape buffer will be installed along the Westerly property line and a 6-foot high fence will be constructed along the Westerly property line. The trees will be 6-inch in diameter and/or above that along the outside perimeter property line. We will be supplementing in some Evergreen trees along the border and up to the Northwestern corner. Some shade trees will be planted throughout the residential development along with some buffering adjacent to the parking and retail areas. There will be some park sitting areas that are proposed for residents of the townhomes. A sidewalk area is proposed for the interior of the looped area. We are asking for a de minimus exception for a sidewalk around the exterior perimeter. We have proposed a pedestrian pathway which will come from Sparta Avenue and we have constructed sidewalks which extend out to Sparta Avenue from the residential development and the looped area. Landscaping trees are indicated on the plant list on Sheet 6/10.

Mr. Donahue stated the Soil Erosion and Sediment Control Plan will be certified by Sussex County Soil Conservation District. We have three sheets of construction details.

Mr. Donahue addressed the Phasing Plan. We are proposing a three phase construction. Phase I will be the construction of the Eastern driveway and that will extend into a temporary cul-de-sac which will be adjacent to Building 6. Phase I will consist of the construction of the roadway of Buildings 1, 2, and 3. There is a list of items to be installed for Phase I.

Phase II will consist of the construction of Building 10 and the construction of the Westerly driveway to access the parking area for Building 10. The construction of Buildings 4 and 5 will be installed along with other items listed on the Phase II list that is on the plan.

Phase III will be completing the remaining roadway work along with the construction of Buildings 6, 7, 8 and 9. During each Phase the lighting and the landscaping will be installed and all the park equipment for each phase will be installed. The commercial parking lot for the retail area will be constructed in Phase III.

Mr. Fiorello asked: In terms of your site plan, indicate for the Board where the open space will be.

Mr. Donahue showed on the plan where that will be.

Mr. Fiorello asked Mr. Donahue to review the engineering report from Mr. Ferriero dated August 8, 2012.

Mr. Donahue reviewed the report from Mr. Ferriero.

Mr. Donahue stated: Under Site Plans B. 3, the two areas adjacent to the visitor parking area will be constructed in Phase II. Item B. 4, we will shift the temporary cul-de-sac to the North about 10 feet so those two parking areas can be installed. Item B. 7, the commercial parking lot area behind the retail development will be constructed in Phase I.

Mr. Soloway asked: You are skipping the other comments. Does this imply they are acceptable to you and the applicant?

Mr. Donahue stated: Yes.

Mr. Donahue continued with Item B. 7, we will have this done in Phase I.

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Mr. Donahue addressed C. 1, the owner would contact the landowner and have the fence relocated onto and off of the subject property. Item C. 4 the stop bar and stop sign will be installed. C. 6, the proposed townhomes will not have patios. We are indicating on the plan balconies or decks which will be installed on the units. The architectural plans show patios but they are not proposed.

Mr. Soloway asked: The architectural plans will be revised?

Mr. Donahue stated: Yes.

Mr. Donahue stated: There is a question on Page 3, C. 9, regarding a discrepancy on the number of parking spaces behind the retail area. There will be 7 spaces right behind the building proposed. There was a typo. C. 10, we will modify the proposed loading space area to provide the 12 x 30 space. C. 11, refers to a minimum 30' wide driveway for two-way traffic. We have 25 feet so we are asking for a Design Waiver. I feel 25 feet is sufficient for those travel ways. C. 13, there are a couple of areas in the rear parking lot of proposed Lot 13.01 which exceed the 4 percent. We are proposing a 5 percent as a maximum in that area. I believe 5 percent is a sufficient maximum grade in that area so we are asking for a Design Waiver.

Mr. Fiorello asked: Is that just for the two areas you have indicated to be 5 percent?

Mr. Donahue stated: Yes, for the parking area.

Mr. Donahue continued with C. 14, we will increase the width to six feet so that if any of the parking stalls overhang, there will be at least a four feet wide sidewalk area. D. 11, we will comply with adding a new inlet. D. 12, we will be disturbing some areas. We will be removing some of the steep sloped area behind the existing warehouse building. The other items under D clarification will be provided on the final site plan. On E. 1, – Lighting Plan – we will modify to comply with the ordinance to be 12–14 feet in height. E. 3, we will provide information on shielding on the lights. E. 4, we will indicate security lighting on the plans. E. 5, we will indicate the offset behind the curb line for the proposed pole mounted lighting. Section F. Landscape Plan F. 2, we will comply with adding the additional trees down to three inches in diameter.

Mr. Soloway asked: Will you comply as well with the replacement requirement?

Mr. Donahue stated: I wasn't sure of the replacement requirement?

Ms. Caldwell stated: You would replace 50 percent of the dbh that you removed. So if you removed a 10 inch tree in diameter, you would replace it with an equivalent of five inches in diameter. This is referenced in Section 240-7.

Mr. Donahue stated: The applicant will comply.

Chairman Le Frois stated: I would just like to get a clarification that compliance would be on the trees that are there today and not what were there six months ago.

Mr. Tharp asked: Is there any stipulation on what type of tree will replace the trees removed.

Ms. Caldwell stated: No.

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Mr. Fiorello asked: Would the installation of the 6-foot high fence together with the buffers suffice for purposes of buffering the townhouses from the continuous residential uses?

Mr. Donahue stated: Yes. I believe it would be a sufficient buffer. It will be a 6-foot high beige vinyl fence on the property line. The length of the fence starts on the eastern rear property line and extends to the corner of Lot 22 and then Lot 2. There is an existing chain link fence at that Northern property line. F. 4, we are not proposing that requirement. We do not provide for the 25-foot wide area.

Mr. Soloway asked: Your testimony on the commercial lot which is Lot 13.01 stated there is no room to be a 25-foot buffer. Is there room on the other side of the lot?

Mr. Donahue stated: We are showing some landscaping on the townhouse side and we are also showing a hedge row to be planted surrounding the parking lot area. We are providing some buffer in that area, some landscape, but not the 25 feet. To provide the 25 feet, we would have to reconfigure the roadway network or lose parking spaces behind the retail space and it would remove a good portion of the parking lot.

Mr. Fiorello asked: Are the commercial parking spaces critical to the operation of the commercial aspect of the subdivision?

Mr. Donahue stated: Yes. Also part of the requirement for F. 4 requires 15 percent of the lot to be landscaped. I am not sure of the exact number but we will probably comply with the 15 percent. Although it will be a grassed area, it will not be completely landscaped.

Ms. Caldwell asked: Can the painted island be a landscaped island?

Mr. Donahue stated: We will review that. We were using some of that for potential truck movements but we can look at that to see if they can be landscaped. We can also provide possibly one or two more trees within the island areas. If necessary we can eliminate a space or two in the rear to provide another tree within that parking lot area.

Mr. Ferriero stated: That is my reading of the intent of the ordinance that you look at the parking lot and I think it applies to the parking lot in the rear and the front.

Mr. Donahue stated: The parking lot in the front would be all prime spaces. It is an area that we were not going to touch much except for restriping. There is a lawn area adjacent to the parking lots and we could put one or two trees in but if the requirement is to provide 15 percent on the interior of both those lots, we would have to lose parking spaces.

Mr. Soloway stated: I don't know how the Board feels and you are not in a position tonight to say you comply and you are saying you need relief. I understand that because you are dealing with an existing situation and there is only so much you can do. But to grant relief, the Board must grant it for something specific and we don't have the specific in terms of exactly what percentage applies.

Mr. Donahue stated: If we have 68 parking spaces in both lots and the requirement is one for 10 or so that would be seven trees, I believe we could comply with that requirement.

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Mr. Ferriero stated: There are two requirements. One is one tree for every 10 spaces and the other is 15 percent of the area needs to be a pervious type surface where you are showing trees in the island.

Mr. Donahue stated: I cannot comment on compliance right now. I will have to get back to you.

Chairman Le Frois stated: There is a third requirement. Isn't there 15 percent for the entire lot as well?

Discussion ensued.

Mr. Torre asked: What is the purpose of the 25-foot buffer?

Mr. Ferriero stated: The idea is to separate the uses. There is a residential use up against a nonresidential use. There should be some type of buffer use. I think the buffer in this case is to create a separation between the two uses. If you have more landscaping in there it may make up for the lack of the width.

Mr. Soloway stated: My interpretation of the ordinance is that you are required to have 15 percent of the total lot landscaped and in a separate ordinance requirement you are required to have 15 percent of the parking lot landscaped. I think it is a non-issue in terms of the entire lot on the residential lot but on the commercial lot if you want the Board to grant relief you have to tell us what percent is proposed to be landscaped.

Ms. Caldwell asked: If you have lot coverage of 75.6 percent does that mean that the remaining is landscaped?

Mr. Donahue stated: Yes. It is either lawn or landscaped, so that part of the ordinance we are in compliance with.

Ms. Caldwell stated: It seems on the Western side there is some room.

Mr. Donahue stated: We are providing a hedge row around there now. We can provide some additional Evergreen trees on the residential portion.

Mr. Soloway asked: Are you complying for items F. 5, 6 and 7?

Mr. Donahue stated: Part of number 7 required a 10-foot wide screen; we don't have the 10-foot area so we would request relief for that.

Mr. Soloway stated: Tell us what you are proposing?

Mr. Donahue stated: Right now it is a 6-foot wide minimum area adjacent to the rear parking lot, Lot 13.01.

Mr. Soloway asked: Whatever currently exists in the front will remain?

Mr. Donahue stated: Yes, approximately 8-feet to the property line.

Mr. Donahue continued with Item F. 8, we will comply.

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Mr. Fiorello asked: With the exception of the parking area in the front of the existing commercial buildings, there is no room?

Mr. Donahue stated: Correct.

Mr. Donahue stated: F. 9, we will comply with the ordinance except for the front which is a pre-existing. F. 10, we are complying. F. 11, we are complying. In the final site plan approval, we will supply a Landscape Plan signed by a Landscape Architect. F. 12 and 13, we will comply with in the final site plan. F. 14, we will comply. G. 1 and 2, we will comply. Letter H, we will comply with those comments. Letter I, we will comply with all the requirements. Page 7, II, Stormwater Management Report, 1, the applicant is proposing all the buildings to be constructed on slabs on grade. Additional information will be provided for the other comments on Page 7. We will provide additional information for all the comments on Page 8. Page 9, II. A. 24, we checked with the Water Department that there are no wells within 100 feet of the subject property. The remaining comments under Stormwater Management will be provided.

Mr. Ferriero asked: Can you construct under preliminary site plan approval?

Mr. Soloway stated: In Newton, you are not constructing on preliminary. It is a complicated site plan.

Mr. Donahue stated: Page 9, III, Architectural Plans, the architect will address those comments in his testimony.

Mr. Tharp asked: I am concerned with the buffer and the amount of trees and the width of the buffer. We talked about the resolution at 30 feet but we have heard 25 feet. I would like to see it contain itself at 30 feet, no less than that. I would like to see as many different kinds of trees we can get in that buffer zone on the North and West side.

Mr. Ferriero stated: That is what I raised before. Do you want a 30-foot buffer of landscaping or 30 feet before you hit a building?

Mr. Donahue stated: Our closest building is 50 feet to the property line which is Building 6.

Discussion ensued.

Chairman Le Frois stated: Is there some wording we could put in the resolution that gets to the heart of the matter and that is meeting the objectives stated in the ordinance.

Mr. Soloway stated: My recommendation would be to defer it to Ms. Caldwell and Mr. Ferriero with the guideline as to the objective you want met. As I keep saying, we need to know exactly what type of relief we are granting. We cannot have a situation where you get out in the field and there is a 30 foot requirement and you just said you don't have to comply with the 30 foot requirement than what are you required to do?

Mr. Fiorello stated: I think the recommendation of Mr. Soloway is well taken. If you are inclined to approve it subject to landscaping the submittal of a final landscaping plan subject to the approvals of your professionals.

Mr. Tharp asked: Will the water main be looped at a later date?

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Mr. Donahue stated: That is correct. We are going to construct that in Phase I. In Phase II the remaining portion of the water main will be constructed and looped.

Mr. Ferriero stated: I am ok with that.

Mr. Flaherty asked: It appears there are sidewalks in the inner part of circle for the residences but all the other residences have no sidewalks. It seems to me there should be sidewalks. This is a walking community. It appears that Building 3 and Building 6 don't have any sidewalks.

Mr. Donahue stated: We planned to have a crosswalk area.

Mr. Martarana stated: The idea is to have a country feel. I feel if you have sidewalks on both sides, it is overkill. We want the interior to have a country feel of Newton instead of a commercial feel like Weehauken.

Mrs. Mattingly asked: What kind of people will buy these townhomes. Are they people with small children who go to school, professional people and it is there first purchase or senior citizens and it is their last purchase, I think that makes a difference of who will use these sidewalks.

Ms. Fairclough stated: Customarily you will get young professionals or couples, young individuals, not too many families. My opinion is to have as much grass as possible. I think that is very appealing and marketable from a real estate perspective.

Discussion ensued.

Ms. Caldwell asked: Mr. Donahue can you testify as to whether there is room for sidewalks on the other side of the street.

Mr. Donahue stated: Yes. Anything is possible. We would have to push the buildings back towards the property line to provide another eight feet. We would lose the drain distance from the building itself to the property line.

Mr. Ferriero stated: You can have pieces of sidewalk for example from the building to the dumpster. You won't have continuous sidewalks and you aren't moving the buildings back but it gives people a place to carry their garbage to the dumpster.

Mr. Soloway requested they provide some renderings regarding this for the next meeting.

Ms. Caldwell stated: Also want to point out that a variance from the ordinance under section 320-22 B requiring sidewalks on both sides of the street as well as a design waiver from section 240-7.H so it is not just a deminuous exception.

Mr. Soloway stated: You have two bulk variances tied into the subdivision. For the record, you want to give testimony as to the hardship of pre-existing condition.

Mr. Donahue stated: For proposed Lot 13.02, the front yard setback for SD4 zone requires 30 feet.

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Mr. Soloway stated: That is pre-existing. I was talking about Lot 13.01 and the impervious coverage for side yard setbacks variances.

Mr. Donahue stated: The impervious coverage is for all impervious coverage on the lot. It is an existing lot that is an existing area of the overall lot that is developed which we are trying to maintain and to separate out onto a separate lot.

Mr. Soloway stated: If you added more non-impervious land in the back to that lot you be encroaching on the green space in the residential lot, is that correct?

Mr. Donahue stated: Yes. That is correct if we extended it to the south.

Mr. Soloway stated: What about the side yard setback?

Mr. Donahue stated: The side yard setback is to the existing building, we are trying to maintain an area for both the townhouse lot and separate an area out for the proposed retail use. That subdivision line as proposed is on the eastern side of the main drive isle. With that it provides a 4.69 side yard setback to the existing building.

Mr. Fiorello stated: That main road way is in a circular fashion access to the back townhouse portion so you have circulation in two points of exit and ingress.

Mr. Donahue stated: Yes. It more or less over the existing driveway; we are trying to maintain the existing retail building and Building 10.

Mr. Fiorello asked: If you had to push the side yard in a northerly direction, you would encroach into the existing proposed low/middle income housing building and Community Center? There is no room to push it.

Mr. Donahue stated: The property line would be on the other side of that drive isle to provide the 30 feet. Then we wouldn't have a 30 foot side yard setback to Building 10.

Mr. Soloway stated: So no matter what you do, you are going to have a side yard deviation and in your opinion it makes more sense to have the deviation on the commercial lot than the residential lot.

Mr. Donahue stated: Yes.

Mr. Soloway stated: At some point someone needs to address any common maintenance and cross easements between these two properties. You will need to have cross easements for access.

Mr. Fiorello asked: There will be a need for access on both of the driveways to get to the townhouse portion of the subdivision, correct?

Mr. Donahue stated: Yes.

Mr. Fiorello stated: And there will be cross easements between the two lots to permit that to happen so that each of the owners of the lots has access by way of that easement?

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Mr. Donahue stated: Correct, access on the center driveway to access the retail lots and for the Eastern driveway to access the residential lot.

Discussion ensued on the easements.

Mr. Soloway asked: How do you propose to handle driveway maintenance?

Mr. Donahue stated: That will have to be worked out with the association for the Townhouse development and the owner of Lot 13.01.

Mr. Fiorello stated: That might be subject to a Developer's Agreement. The proposed townhouse lot in terms of maintenance of roadway would be the responsibility of the condominium Association. They would plow, maintain and repair. In terms of the cross easements and the access roads there would have to be a proportion agreement between the commercial lot and townhouse lot as to how that will be handled since that will be a point of access for both of them.

Mr. Donahue stated: What I would suggest is that the main road while it is on both lots should be the responsibility of the Townhouse Association because it needs to be clear 24/7. You can't wait for the commercial property to be cleared first. Both lots need to be clear 24/7. If you have a snow storm on Saturday, the roads still have to be open.

Mr. Fiorello stated: That is well taken and I would recommend that to my client.

Mr. Steinberg asked: Has any pervious material been considered for the hard surfaces that will be constructed?

Mr. Donahue stated: The retention basin is sized for the 100 year storm. The Town Engineer has reviewed that and has asked for additional clarification on some items. The only pervious surface we are proposing is the paver walkway. Everything else will be asphalt.

Mr. Russo stated: Even though the project will be phased in terms of construction that the water and sewer hookup fees are all due up front. I know it is quite a hefty price tag right up front but that will be part of your Developer's Agreement. The Town always expects payment upfront.

Mr. Martarana stated: The whole water and sewer payment has to be paid for all three phases?

Mr. Russo stated: Yes, prior to getting in construction permits you knew that before tonight and. I just want to state it for the records so that everyone knew. That is part of the application to the Utility Advisory Board.

Chairman Le Frois opened up this portion of the meeting to the public.

1st public – Kent Hardmeyer, 70 Pine Street, one of my biggest concerns was that the buffers were not adequate. I am glad to see that in the resolution that was passed it is very specific that there is a 30-foot buffer. I know there was a lot of discussion on the buffer. I would like to call to everyone's attention to our ordinance on Section 240-43 Section 247b there are specific design standards and they talk in length about buffers so I would encourage Mr. Donahue and his landscape architect to take that very seriously. It tells exactly what is spelled out. Also Section E of that section says that no buildings, signs, structures including infiltration basins, shall be permitted within the buffer area.

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Mr. Ferriero stated: There is an area where there are some dry wells enclosed.

Mr. Hardmeyer stated: There is no existing vegetation so please have a heart and design something we can all be proud of and will work for us giving up the protection we feel we need. I would also like to remind everyone that the people who are going to move here are faceless; nameless we don't know who they are but we do need to protect them and when I look at this and if you look at the last set of buildings which are right against the commercial development which is right behind Krave, people are coming out all hours of the night turning on their headlights, opening and closing doors how much protection are they getting, and if he can't meet it maybe we need to shrink the project a little so that they can meet the requirements. We want to make a neighborhood. We want to make a place that homeowners are glad they bought. And if the buffers remain on the commercial side who is going to maintain them? Do the homeowners have to depend on the commercial area to provide the buffers for them? I think the buffers should be in the hands of the Homeowner's Association to maintain. I feel sidewalks on one side will be sufficient. I am not sure if having dumpsters is the best idea. Bears hang out there. Can you look into having the garbage picked up?

No more public stepping forward, Chairman Le Frois closed this portion of the meeting.

Mr. Fiorello started his questioning of Mr. Penhke.

Mr. Penhke stated: The project is a mixed used development. There is the residential component in the back and the retail in the front. In terms of the design of the residential development, I have reviewed it for its performance with the R.S.I.S. Mr. Donahue has adhered to all the requirements with respects to the design. In my opinion the site conforms to RSIS and from the traffic standpoint will function safely. There is one issue that we talked about with regard to RSIS and that is the provision for sidewalks on both sides of the road ways. In my opinion having sidewalks on the internal won't result in a negative for the Township. Mr. Donohue had laid out practical sidewalk connections. I do believe there are some linkages and some crosswalk areas that we should fill in and I concur with that and we will work with the Town's Engineer. Regarding the width of the road, I would suggest to the Board that a 30 foot wide road is a very wide road. The access isles that have been designed by Mr. Donohue at 25 feet meet and exceed national and recognized standards for active isles. The provision for the 25 feet works. The additional 30 feet really does not provide any additional benefit. In fact there is a negative with providing more impervious surface area that you have to deal with for the storm water runoff. In my opinion, the design presented by Mr. Donohue works, it is safe, efficient, meets standards that are applicable for this type of use.

Mr. Fiorello asked Mr. Penhke to comment on the access for Road number 1 and 2 and the turning radius and the site radius.

Mr. Penhke made his comments on the access road and feels with the improvements, things will work.

Mr. Tharp stated: The County has disapproved this plan.

Mr. Penhke: The County has raised some additional questions. We are in the process of setting up a meeting with the County to discuss the design approach and resolve that.

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Mr. Fiorello stated: An application was filed with the County and the application was not approved. They will be having a meeting. There is a checklist that needs to be prepared and additional dialogue between the two parties and a decision will be made.

Mr. Soloway stated: If the Board does approve the application, it is subject to County approval because Sparta Avenue is a County road.

SWORN: Gary Dean, Traffic consultant to the Board, with Dolan and Dean Consulting Engineer stated: I issued a report dated August 9, 2012 that focuses on the site plan issues. There are three areas that I would like Mr. Penhke's opinion on. The first relates to the intersection of Road 1 and 2, there is a proposed trash enclosure. I have some concerns about visibility.

Mr. Penhke stated: Rather than having the four locations with the trash enclosure, we felt it better to consolidate them to two and none will be near the intersections.

Mr. Soloway asked Mr. Donahue to present an exhibit at the next hearing to show the placement of the dumpsters.

Mr. Dean stated: The second issue relates to the "guest parking" at the intersection of Road 2 and 3. The space nearest to the intersection has some potential to obstruct site triangles.

Mr. Penhke stated: I spoke to Mr. Donahue on that and we can shift it a little bit over.

Mr. Dean stated: The third question relates to the proposed crosswalk leading from Building 10, to the connection of the commercial area. There is an unusual stop condition proposed at that location so that residents who are leaving stop initially and they don't block the driveway to the access isle leading to the storefronts. At the crosswalks, if someone stops at that driveway it is then blocked.

Mr. Penhke stated: I looked at your comment on that. The crosswalk is appropriate because it hits the building face of the old masonry building and it is feeding into where people will be walking. I used the stop sign to give some control at the location. The other option that you suggest would be better so we can do that.

Mr. Dean stated: It is a matter of control. As the application indicated they don't want to move to an urban design but it is very difficult to regulate courtesy. The double stop clearly defines that the access should be controlled. As long as the intent is to have the crosswalk in the correct location, because if not if a car should appropriately stop it then blocks the crosswalk.

Mr. Le Frois asked: Mr. Penhke to respond to Mr. Dean's five comments.

Mr. Penhke stated: They are all complied with by his satisfaction.

Mr. Le Frois opened this portion of the meeting up to the public relative to traffic and circulation around the site.

1st public

Mr. Hardmeyer stated: On the lower driveway where it meets Sparta Avenue, is it out only?

Mr. Penhke stated: No. It will be two way.

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Mr. Le Frois stated: Due to time, we will carry the remainder of the application to the next meeting, September 19, 2012, 7 PM with no further notice.

CORRESPONDENCE

Ordinance #2012-17, Resolution #121-2012, and Resolution #129-2012 were distributed to the Board members.

PUBLIC PORTION

No public stepped forward.

Mr. Le Frois suggested the November 21, 2012 be cancelled due to the fact it is the day before Thanksgiving. The Board agreed.

ADJOURNMENT

Mr. Flaherty made a motion to adjourn the meeting. Mr. Russo seconded the motion. The meeting was adjourned at 10:44 PM. with a unanimous "aye" vote. The next regularly scheduled meeting will be held on September 19, 2012, at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,

Katherine Citterbart
Planning Board Secretary