

**Newton Planning Board  
December 19, 2012  
7:00 PM**

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

**FLAG SALUTE**

**MEMBERS PRESENT:** Mr. Torre, Mrs. Mattingly, Mr. Flaherty, Mr. Marion, Mr. Tharp, Mrs. Diglio, Mr. Ricciardo, Mr. Hardmeyer, and Chairman Le Frois

**EXCUSED:** Mr. Russo

**ABSENT:** Ms. Logan, Mr. Steinberg

**PROFESSIONALS PRESENT:** David Soloway, Esq., Board Attorney, of Vogel, Chait, Collins & Schneider, Dave Simmons of Herald Pellow & Associates.

**BOARD SECRETARY** – Kathy Citterbart, Board Secretary

**CONSIDERATION OF MINUTES**

October 17, 2012 Regular Meeting

**Mr. Marion made a motion to approve the October 17, 2012 minutes. Mr. Ricciardo seconded the motion.**

**AYE:** Mr. Torre, Mr. Marion, Mr. Ricciardo, Mr. Hardmeyer

**RESOLUTIONS**

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

Resolution granting approval for preliminary site plan and preliminary subdivision approval for 54 townhomes and six low and moderate apartments.

**Mr. Flaherty made a motion to approve the Resolution. Mr. Torre seconded the motion.**

**AYE:** Mr. Torre, Mrs. Mattingly, Mr. Flaherty, Mr. Le Frois

**DISCUSSION**

Barnhill Care Center – Block 1.01, Lot 19, Location: 249 High Street for screening of generator by David Simmons, Board Engineer.

Mr. Simmons gave a background on the generator.

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Mr. Simmons stated: Once they added the addition on, they found out that if they had a power outage, they did not have sufficient capacity with their current generator so they added a larger generator. The only place they could put it was very close to the building and close to the curb line. One of the things this Board required was to put some fencing in to help screen it. The generator company had a concern with this. We asked Barnhill if they could come up with an alternative. The alternative that they came up with was painting the one side of the generator to look like brick. So they are asking the Board what they think of this alternative before they go forward.

Discussion ensued.

Mr. Le Frois asked: What is wrong with painting it?

Mr. Ricciardo stated: Let's say the generator runs for a long time; it could get warm. The paint could run and then they would have to repaint it and it does need to be protected. I would imagine they could put bollards in.

Mr. Simmons stated: I did bring that up to them. The base of the generator is next to a fuel tank.

Mr. Soloway stated: My point of view is whether you are going to require them to come back in here to talk about it or can you reach a resolution in an informal conversation? The real issue from the Board is visibility and noise.

Mr. Torre stated: I don't think it is necessary to bring them back in. I don't think there is any danger to the public. I am satisfied to leave it in Mr. Simmons hands to work with them for the best possible solution.

Mr. Ricciardo stated: It is not Mr. Simmons' responsibility to approve what they do; he is supposed to approve what they agreed to.

Mr. Simmons stated: There is a concern that if you strictly enforce the resolution condition and require the fence around the three sides; there is the concern of the ventilation and serviceability. The bigger concern is from the standpoint of ventilation, over heating of the generator and decreased reliability and you couple that with snow in the winter time and the snow could get packed between the fence and the generator and some component could get clogged with snow and ice. I looked at it from the standpoint of you have the generator there and it is a life safety situation with folks in a nursing home. The last thing we would want would be to have a failure with the generator. The purpose of my bringing this up was to bring it to the Board's attention to see if this was a reasonable alternative for the condition of the resolution.

Mr. Le Frois asked: In order for us to change one of the conditions that is in the resolution, would we formerly vote on that modification? Is the applicant required to come back as a result?

Mr. Soloway stated: Clearly it was a condition of the approval.

Mr. Le Frois stated: The main reason they were here was because of the generator.

Mr. Simmons stated: When someone comes to us with a generator request, the main thing you look at is visibility and noise.

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Mr. Soloway stated: I would do a motion. You need to have a paper trail on this. I would put in a letter very specifically to the applicant from Mr. Simmons and have the Board copied on the letter so it is in the file.

Mr. Soloway asked: Mr. Simmons if an as-built is required to which Mr. Simmons stated yes.

Mr. Le Frois stated: We would make a motion that would approve a field change that would delete the fence, allow paint to represent faux brick on the outside of the generator, and adjacent equipment boxes and document it in a letter to the applicant and have them comply and confirm that they comply through submitting as built and actual field confirmation. Making sure the width of the generator is protected as to what is appropriate per Mr. Simmons. All information will be copied to the Board and added to their file that goes along with the resolution that was done in 2009.

**Mr. Torre made the motion based on what Mr. Le Frois stated. Mr. Marion seconded the motion.**

**AYE:** Mr. Torre, Mrs. Mattingly, Mr. Flaherty, Mr. Marion, Mr. Tharp, Mrs. Diglio, Mr. Ricciardo, Mr. Hardmeyer, Chairman Le Frois

**HISTORIC**

**#HPC-04-2012- First Baptist Church of Newton  
Block 7.08 Lot 13  
110 Main Street**

Recommendation to approve the construction of a canopy for front entrance of the Church.

**SWORN:** Wayne McCabe, Licensed Professional Planner and County Historian.

Mr. McCabe showed the Board a picture of what the tapered plain columns for the canopy will look like and he indicated the Doric style fit the building the best.

**Mr. Ricciardo made a motion to approve the historic resolution with the additional detail of the columns. Mr. Tharp seconded the motion.**

**AYE:** Mr. Torre, Mrs. Mattingly, Mr. Flaherty, Mr. Marion, Mr. Tharp, Mrs. Diglio, Mr. Ricciardo, Mr. Hardmeyer, Chairman Le Frois

**#HPC-03-2012-SAK Associates LLC  
Block 7.05, Lot 11  
24 - 24 ½ Church Street**

Recommendation to deny the application to demolish the building to the foundation and replace by a parking area to relieve parking congestion in the area and aid in flow of traffic to patronized premises, and provide overflow of parking to church functions.

Mr. Robert B. Campbell, of McConnell, Lenard & Campbell, L.L.P, representing SAK Associates, LLC, submitted a letter dated November 27, 2012 stating his client has no intention, at this time, to file another application regarding this property. Therefore you may remove this matter from your agenda going forward.

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Discussion ensued.

Mr. Ricciardo made a motion to confirm the denial of the HPC noting the attorney for the applicant submitted a letter stating that the applicant was not pursuing any development application regarding the property at this time, the Board made no determination regarding the merits of the application and that the denial of the application is without prejudice to the right of the applicant or any successor in interest to make a future application regarding the subject property. Mr. Marion seconded the motion.

**AYE:** Mrs. Mattingly, Mr. Flaherty, Mr. Marion, Mr. Tharp, Mrs. Diglio, Mr. Ricciardo, Mr. Hardmeyer, Chairman Mr. Le Frois

**ABSTAINED:** Mr. Torre

**NEW BUSINESS**

None

**OLD BUSINESS**

None

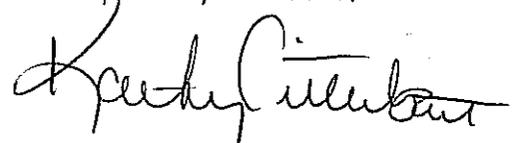
**PUBLIC PORTION**

NONE

**ADJOURNMENT**

Mr. Ricciardo made a motion to adjourn the meeting. Mrs. Diglio seconded the motion. The meeting was adjourned at 8:15 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on January 16, 2013, at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Kathy Citterbart  
Planning Board Secretary