

**Newton Planning Board**  
**February 20, 2013**  
**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. Katherine Citterbart, Board Secretary, stated there was a quorum.

**FLAG SALUTE**

**MEMBERS PRESENT:** Mrs. Mattingly, Mr. Marion, Mr. Tharp, Mrs. Diglio, Mr. Russo, Ms. Logan, Mr. Hardmeyer, Mr. Steinberg and Chairman Le Frois

**ABSENT:** Mr. Torre

**EXCUSED:** Mr. Flaherty and Mr. Ricciardo

**PROFESSIONALS PRESENT:** David Soloway, Esq., Board Attorney, of Vogel, Chait, Collins & Schneider, David B. Simmons, Board Engineer of Harold E. Pellow & Associates and Jessica Caldwell, PP. of J. Caldwell & Associates.

**BOARD SECRETARY:** Katherine Citterbart

**CONSIDERATION OF MINUTES**

January 16, 2013

**Mr. Marion made a motion to approve the minutes from the January 16, 2013 meeting. Mrs. Diglio seconded the motion.**

**AYE:** Mrs. Mattingly, Mr. Marion, Mr. Tharp, Mrs. Diglio, Ms. Logan, Mr. Steinberg and Chairman Le Frois

**HISTORIC RESOLUTIONS**

None

**RESOLUTIONS**

None

**OLD BUSINESS**

None

**NEW BUSINESS**

Newton Medical Center (#SP1-2013)  
Block 2.02 Lot 4 – 175 High Street

Preliminary & Final Site Plan approval for construction of an oxygen tank and pad.

Christopher Quinn Esq. of Morris, Downing & Shered, represented the applicant.

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**SWORN:** Rachel Sheets, 209 Dietz Street, Cranford, NJ, Peter Palmer, 46 Lake Road, Morristown, NJ, Darren Phil, 100 Valley Road, Mt. Arlington, NJ

Mr. Phil stated his qualifications and the Board accepted them.

Mr. Phil gave an overview of the proposed plan and described the site plan for the oxygen tank. He stated: The location is right at the corner of the emergency room. There are parapet walls that are located adjacent to the main driveway that goes east to west on the property. We are at the lower portion in the corner of the lower parking lot which is used for administrative staff and the relatively new parking area that was created for the access into the emergency room. In regards to the improvements, there will be a concrete slab in the corner of the two parapet walls that will protect the public as they walk up the sidewalk and a retaining wall that is below the parapet wall which will be 3 ½ feet tall that retains the access drive coming across the hospital and then the emergency room parking area. Two parking spaces will have to be removed. The tank will sit there and provide the oxygen to the emergency room. It has been designed with the capacity to only need fueling once every 20 days. There will be no change to how one gets into the emergency room. We will replace the concrete walkway with a structural walkway with a lower curb height providing the opportunity for the tractor trailer to come in and around if he needs to.

Mr. Quinn stated: The impetus for the installation of the tank is they are installing two hyperbaric chambers under the emergency room which they never had before. That is the driving force for this.

Mrs. Diglio asked: How many feet are between the pads and the gate? We have large fire trucks and ambulances and trying to swing them around is not going to be easy.

Mr. Phil stated: There is approximately 50 feet from the center of the pad to the gate. There is more than enough room.

Mr. Phil talked about the illumination on the tank area. It will be adequately lighted.

Mrs. Mattingly asked: Will you be able to use the emergency room entrance of the hospital?

Mr. Phil stated: Yes.

Mr. Phil referred to sheet 4 which showed the one drain. No drain will be within four feet of the facility's fueling point. He showed a view of the sidewalk and the lower 6 ft. high fencing. There is an existing 3 ½ ft. parapet wall that protects the public. We want to add 2 ½ feet off the existing sidewalk so everything going around will be 6 ft. high fencing. It will be an ornamental fence. The oxygen tanks need to be able to vaporize out so you can't bury the tanks. They need to be out in the open by law. We are permitted to have enclosures on two sides but not three or four.

Mr. Tharp asked: Is there a curb surrounding this concrete pad that the tanks will be mounted on? If there was a spill would it go into the drainage? If the fence is only 6 ft. high, someone could be smoking and toss a cigarette over the top, what is that going to do?

Mr. Quinn referred to Rachel Sheets for the answers.

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Ms. Sheets stated: I am a Chemical Engineer and have worked in this area for 8 years. She gave her credentials and the Board accepted them.

Ms. Sheets stated: The answer to Mr. Tharp's first question is there is no curbing. The drain will be relocated. By law it must be 8 feet away from edge of the pad. So coming up with the standard, if you were to have a liquid oxygen leak, it would dissipate before it would be able to reach the opening of a sewer grate.

Mr. Tharp asked: No matter how big the leak is?

Ms. Sheets stated: No. There is no way to actually quantify that. If you had a catastrophic dump of this oxygen tank then yes it would go into the drain. Having a curb is not going to help that. No amount of curbing will help something that big. The most common release of oxygen in an oxygen system is the vapor from the venting that goes straight up into the atmosphere. The reason that these standards are in place is because our industry of experts looked at it and said any kind of a typical leak of liquid oxygen is going to dissipate before it would enter the sewer grate.

Mr. Tharp stated: The key word is typical.

Ms. Sheets stated: The quantity of liquid oxygen by the time it got down there would be very minimal and you would have to have some type of serious reaction within that area to cause any concern which is not very likely.

Mr. Tharp asked: What about the cigarette theory?

Ms. Sheets stated: It is very understandable and we have that concern at a lot of places. There really is no way to keep people from throwing any type of debris. Obviously there will be signs saying "oxygen area no smoking". If someone did throw a cigarette in there and there happened to be leak, the only thing that would really happen is the cigarette would burn very quickly. Any combustible material will be removed from the area such as trees.

Mr. Tharp stated: There is an elevated sidewalk there. People walking by are not at ground level. They are six feet in the air and then the fence is only 6 ft. from the sidewalk.

Ms. Sheets stated: We have an agreement with the hospital that they keep this area clean. They will do a daily check of the area and are reading levels to make sure they are fine and surveying the area to see if there is anything wrong.

Mr. Tharp asked: Are there any sensors to detect a leak?

Ms. Sheets stated: No. There are not any sensors to tell you if there is a leak. There are alarms so if you have a leak that would cause a level issue, the alarm would go off. It is a safety release. One way the hospital will know if they have a leak would be to get a low pressure reading.

Mr. Steinberg asked: What would happen if the oxygen did get out in a large quantity?

Ms. Sheets stated: There will be no contamination. Oxygen on its own or mixed with something won't do anything on its own. You need a spark for something to happen but you do need to take safety precautions.

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Mr. Tharp asked: How much pressure is the oxygen under?

Ms. Sheets stated: The maximum allowable working pressure of the tank is 250 lbs. but using pressure regulation would put the oxygen at 125 lbs. so it is a low pressure system. No higher than your water pressure system tank in your home.

Mr. Simmons stated: Normally your oil tank or your water pressure operates under a 40 to 60 psi range and that type of tank is tested for about 120 psi.

Mr. Tharp asked: What type of training is there if there is a leak?

Ms. Sheets stated: Our service technician does an in service training with the hospital staff that is responsible for maintenance. They go through a 15 page booklet that explains to them what is normal and what is not normal on the site and lets them know when they need to contact us. We give them our emergency numbers and it tells them ways to handle things themselves and things they can't. We have a 24/7 service so they can call us and if it is something we can help them with over the phone we can help mitigate that otherwise we have technicians on call 24/7 that can come out. At installation we leave the training book with them and then we do it yearly when we come out and do our preventive maintenance protection.

Ms. Logan asked: Is this similar to the existing system?

Ms. Sheets stated: Yes it is similar. We are doubling capacity. They are going from a 1500 gallon tank to 3000 gallon. It is similar and up to code. The existing site is not up to current safety standards. Although you are increasing capacity the safety standards that you will get provide for a higher level of security.

Mr. Tharp asked: How can the hospital operate something that is not up to code?

Ms. Sheets stated: They installed it under the code that was in place at the time.

Mr. Tharp asked: So as the code changes for something like pressurized oxygen wouldn't you think they would be required to update the system?

Ms. Sheet stated: No they are not. It is a NFPA (National Fire Protection Agency) requirement. As soon as they touch the system to upgrade if they have to upgrade to current code.

Mr. Le Frois asked: I would image at nighttime if might difficult to see. If someone parks to the lower right of the drawing and they are walking up the sidewalk towards the emergency room with that gate being open, could it say something to the affect sidewalk closed? Would they have to cross the street? What would be the provision for the pedestrian if they are walking up the sidewalk?

Mr. Phil stated: The provision is if the sidewalk is blocked, it would be a one-way drive and they could walk up the other side of the curb line.

Mr. Le Frois stated: The thought would be they would walk out in the roadway.

Mr. Phil stated: Yes.

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Mr. Le Frois stated: I think a procedure should be written on who will close the gates and there should be something for the pedestrians.

Mr. Quinn stated: There shouldn't be any pedestrians.

Mr. Le Frois stated: I think a sign would be a good idea.

Mrs. Diglio asked: Why didn't they decide to use the lower parking lot to fill the tank? Why are they using the road to fill the tank?

Mr. Phil stated: The access to get in to the lower lot is better. It is a standard delivery truck for oxygen. It is quite large, 57 feet long and more of a secured parking lot. It is for administrative staff only not for the public and one-way circulation for passenger vehicles. It is a convenient location.

Mr. Tharp asked: Will there be bollards?

Mr. Phil stated: Yes. It is to keep people in the appropriate configuration for driving through.

Mrs. Diglio asked: When there is an emergency at the hospital and you have fire trucks and emergency vehicles going in, I foresee a problem. Our ladder truck is bigger than 57 feet and here have been many times that the emergency equipment has gone up there. I am just concerned when there is an emergency up at the hospital while the tank is being filled.

Mr. Quinn stated: The fueling would discontinue and the truck would leave.

Mr. Simmons referred to his report dated February 14, 2013. He stated: I am just going to highlight the points because I think during the testimony the applicant's professionals have addressed a lot of the points that were brought up in my letter. For purposes of completeness there were about a page and a thirds of items that the applicant had provided but as I pointed out this is inferior for the site and a lot of the items needed for completeness don't impact what they are proposing to do and/or over the years the hospital has provided other documentation that supplements this application. The three main items I mentioned for completeness were the Environmental Impact Statement, they did not provide a statement specifically that goes over safety of the proposed oxygen storage facility, but I believe their engineer did during his testimony. The Facility Impact Report as far as the traffic impact statement specifically relating to the logistics of the unloading zone and its impact on the access drive circulation. They have been talking about that as far as the gated access goes and with removing the tractor trailer from the site so emergency vehicles can get around and get through.

Mr. Le Frois asked: Would it be appropriate to ask for a written description of who opens the gate?

Mr. Simmons stated: Possibly the 15 page report that is given at the time of installation could be filed with the Fire Department as well so the logistics are known to everybody and my assumption would be that the hospital will probably invite the emergency services to go over the training as well to make sure everyone is on the same page. Under Fire Protection Details, specifically on the requirements for the construction official's office under the Fire Sub Code Official to make sure he is in agreement as well as the Department of Community Affairs, if it is necessary, and get everyone's blessing on the proposed installation and features. Regarding zoning, it is a permitted use. They pointed out they will be losing two parking spaces but I don't

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think there is any impact as far as zoning goes. The fencing they are proposing is fine. The other three components that are part of this installation is a reserve tank that will be a vertical 500 gallon tank which will be 11 ft. 3 inches in height and a vaporizer unit which will be 15 ft. 3 inches high and an alarm panel with some other valves which is approximately less than 5 feet.

Mr. Tharp stated: The vertical is going to stick up.

Mr. Simmons stated: It will stick up above the parapet and one of the things we asked at the TRC meeting this afternoon was it possible to get a horizontal 500 gallon tank.

Mr. Phil stated: It is my understanding that the smallest horizontal is 1500 or 1600 gallons and we only need 500. That would be quite large.

Mr. Simmons stated: So that is the one condition is that the tank will be above the parapet.

Mr. Simmons asked the applicant if they could elaborate on the vaporizer system to the effect of any noise, etc.

Mr. Phil stated: It doesn't make any noise.

Mr. Simmons referred to item 4F; we talked about any future plans of adding any additional oxygen tanks or vaporizers at this location.

Mr. Quinn stated: There are no plans for that.

Mr. Simmons stated: I would suggest by the gate some additional signage because when someone is coming in an East to West direction to bear to the left, just so they know to swing back to the right especially on a foggy night.

Mr. Phil stated: We would want to block that somehow because when the gate is in its open, normal position that sign will be visible. We don't want any confusion.

Mr. Soloway asked: In Item J, you are requiring a waiver for the fence height for security? Is that correct?

Mr. Phil stated: Yes.

Mr. Soloway stated: Mr. Simmons' report also indicates that sections of the fencing on top of the retaining wall will have a height extending 6 feet. When a Board grants a waiver or a variance, we really like to know what we are granting. Do you know how high it will be?

Mr. Phil stated: Approximately 12 feet because it is a 6 foot wall and there is a 3 ½ parapet and then we want 2 ½ foot additional, so from the sidewalk it is 6 feet. So from the lower parking lot it will be 12 feet.

Mr. Simmons asked: Will the lights be on from dusk to dawn?

Mr. Phil stated: Yes.

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Mr. Simmons stated: I pointed the lights out because you might want to look at it because of the shadows created when they are trying to put that light over the tanks. I know the main goal is for the operator to be able to see what he is doing. I would suggest to the Board if you can leave the lighting subject to modification just to make sure it works as intended.

Mr. Phil stated: Sure.

Mr. Simmons stated: I request as part of the approval you provide an as-built plan just so everybody has it on record.

Mr. Quinn stated: We fully agree.

Mr. Soloway stated: Kathy Citterbart received a letter from Vivian Broom and asked that it be read at the meeting tonight. I don't believe she has the right to do that but I will read it gratefully. Question 1, what will be the property value of my land once the tank is built? Mr. Soloway stated: I don't think that is an appropriate question for a fully conforming application. Second question, Will the property taxes be increased and who is responsible? Mr. Soloway stated: The property owner is responsible. Third question, Will this affect my property in any aspect? Mr. Soloway stated: She does not identify her property so it is an impossible question.

Mr. Quinn stated: I had a telephone call from her and I tried to ascertain where her property was? She thought we were erecting this tank on her property.

Mr. Soloway stated: It is not appropriate evidence in my opinion for consideration of this application. But since she went to the trouble of writing the letter and asked we read it, I did so.

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

Chairman Le Frois made a motion to approve the preliminary and final site plan with a waiver for fence height and lighting that would address the comments set forth in Mr. Simmons' report. The applicant will provide information to the Fire Department. Two waivers are needed one for the fence height requirement and one for the landscaping requirement.

Ms. Caldwell stated: I have two separate waivers. One is for any fence height greater than 4 feet in a front yard and then the maximum height of the fence is 6 feet.

**Mr. Marion made a motion to approve the preliminary and final site plans with the four waivers. Mrs. Mattingly seconded the motion.**

**AYE:** Mrs. Mattingly, Mr. Marion, Mr. Tharp, Mrs. Diglio, Mr. Russo, Ms. Logan, Mr. Hardmeyer, Mr. Steinberg and Chairman Le Frois

**EXTENSION REQUEST**

E.J.B. Real Estate Associates, Ltd. (#PB-09-2009)  
Block 21.01, Lot 1 – 1 Brooks Plaza  
**Carried to March 20, 2013 meeting with no further notice at 7 PM.**

Mr. Le Frois stated: It was an amended preliminary site plan extension request.

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Mr. Soloway stated: We were handed a letter from the applicant's attorney stating their ongoing discussions among the applicant and the Board's council engineer and planner regarding the impact of the Permanent Extension Act of this application; therefore, the applicant respectfully request the Board carry the application to the next regularly scheduled Planning Board meeting. The request on the agenda was to extend the previous approvals which have reached their expiration date in terms of the period of protection granted under the municipal land use law. It is important in this application because of the zone changes. The legislature has passed a statute called the Permanent Extension Act which has extended many existing development approvals through the State of New Jersey through the end of 2014. The applicant's attorney is trying to figure out whether this particular piece of property is covered by the Permanent Extension Act. This is not an easy question to answer because of wrinkles having to do with whether it is in an environmentally sensitive area and whether it is included in the portion of Newton that is in a designated center. If it is covered by the Permanent Extension Act they will probably withdrawal their request because it will be moot. If it is not then presumably they will be here next month. At this point, I recommend to the Board that we adjourn it.

The Planning Board went into Executive Session at 8:17 PM and came out at 9:35 PM.

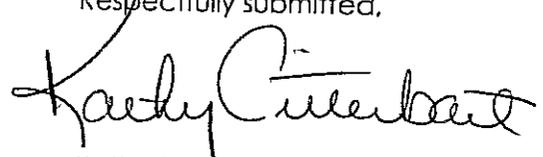
**PUBLIC PORTION**

NONE

**ADJOURNMENT**

**Mr. Tharp made a motion to adjourn the meeting. Ms. Diglio seconded the motion. The meeting was adjourned at 9:37 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on March 20, 2013, at 7:00 PM in the Council Chambers of the Municipal Building.**

Respectfully submitted,



Kathy Citterbart  
Planning Board Secretary