

Planning Board Meeting

Regular Meeting of September 17, 2008 at 7:00 pm

The regular meeting of the Planning Board took place on the above date. Chairman McCabe read the Open Public Meeting Act and requested Board Secretary Mrs. Citterbart called the roll. Board Secretary Citterbart stated there was a quorum.

Members Present: Ms. Fowler, Mr. White, Mr. Ricciardo, Mr. Russo, Mr. Vandyk, Chairwoman McCabe

Absent: Mr. Caffrey, Mr. Elvidge

ALSO PRESENT: Mr. David Soloway, Esq., of Vogel, Chait, Collins and Schneider, Ken Wentink, Board Engineer, Debra Millikin, Deputy Town Manager, Kathy Citterbart, Board Secretary

FLAG SALUTE

CONSIDERATION OF MINUTES

Mr. Ricciardo made a motion to approve the minutes of the July 30, 2008 meeting. Mr. Vandyk second the motion.

AYE: Mr. White, Mr. Ricciardo, Mr. Vandyk

ABSTAINED: Mrs. Fowler, Chairwoman McCabe

Mr. Vandyk made a motion to approve the minutes of the August 13, 2008 meeting. Mr. Ricciardo second the motion.

AYE: Ms. Fowler, Mr. White, Mr. Ricciardo, Mr. Vandyk, Chairwoman McCabe

Mr. Ricciardo made a motion to approve the minutes of the August 27, 2008 meeting. Mr. White second the motion.

AYE: Mr. White, Mr. Vandyk, Mr. Russo, Chairwoman McCabe

RESOLUTIONS

PB-06-08 Nause, Scott – Block 802, Lot 34 – 91 Trinity Street.

RECUSED: Chairwoman McCabe

Mr. Vandyk made a motion to approve the resolution PB-06-08. Mr. Ricciardo second the motion.

AYE: Mr. Ricciardo, Mrs. Fowler, Mr. White, Mr. Vandyk

ABSTAINED: Mr. Russo

HISTORIC RESOLUTIONS

2008-05 County of Sussex, Property Location: County Park

RECUSED: Chairwoman McCabe

Mr. Ricciardo stated: It's my understanding that the Historic Committee was told at their meeting that the State of New Jersey has jurisdiction over this. Ms. Millikin stated: Part of the condition was that the County had to obtain statements for approval. Mr. Ricciardo questioned: Have they done that? Ms. Milliken stated: I don't know. Their certified resolution or my certified piece of paper says that the County should advise the State Historic Preservation Office to confirm work to be completed. Mr. Ricciardo stated: It is my understanding that they have to obtain that in writing. If possible I would like to see a copy of that. I think this packet is incomplete without that attached.

Mr. Ricciardo made a motion to give 60 days to produce the letter or it has to revert to its original condition. Mrs. Fowler second the motion.

AYE: Ms. Fowler, Mr. White, Mr. Ricciardo, Mr. Russo, Mr. Vandyk

OLD BUSINESS

#SP 08-07 Martorana Enterprises, Block 1201, Lots 5 & 5.03, 100 & 104 Sparta Avenue. Applicant is seeking major site plan approval to construct 2 retail buildings. Representing the applicant is Kevin Kelly, Esq. from the firm of Kelly, Ward and Laemers and Mr. Anthony Fiorello, Esq., Greg Martorana, sworn, Mr. Frank D. Mileto, Planner, 13 Beaver Brook Drive, Long Valley, NJ, sworn, Thomas E. Donahue, Donahue Engineering, 34 East Prospect Street, Waldwick, New Jersey, sworn.

RECUSED: Mr. Ricciardo

Mr. Kelly stated: Last time the whole night was taken up by the internal circulation plan. As a result of that, Mr. Simoff revised the plan dated September 4, 2008. That plan is what you see on the bulletin board and marked as Exhibit A-5. Sometimes these applications go on for so long that we forget what we did in the beginning. We wanted to make transcripts of the earlier meetings so that we all are able to see what we have done and what we haven't done. I have complete transcripts of the January 29, 2008 meeting and the February 20, 2008 meeting. I don't have last months yet. I will supply that one too. Mr. Soloway stated: Mr. Russo was not here in January or February will be reviewing those transcripts so he is eligible to vote. My understanding is that we will not

be finishing tonight anyway. I will give to Ms. Citterbart and she will make a copy for all Board members who want one. Please make one and send one to me. Mr. Russo would like one and Chairwoman McCabe.

Mr. Kelly stated: I would like to call Mr. Mileto as a witness. I would like to mark his report Exhibit A-6 dated June 12, 2008 and give out some copies.

Mr. Kelly questioned: Mr. Mileto, would tell the Board what your profession is please? Mr. Mileto stated: Licensed professional planner in the State of New Jersey. I have been licensed since 1972 and continuously practice that and continue to this day to practice in the State of New Jersey as a professional planner. Mr. Kelly questioned: What does that practice consist of sir? Mr. Mileto stated: It consists of testifying before Boards like this, planning out site plans with a team of other on the design team, sometimes preparation of Master Plans, ordinances as well as testimony in Superior Courts as an expert witness for Planning Boards and Zoning Boards throughout the State. Mr. Kelly questioned: You have been involved in this case as the applicant's professional planner from the beginning? Mr. Mileto stated: Yes.

Chairwoman McCabe questioned: Your license is current? Mr. Mileto stated: Yes. Chairwoman McCabe stated the Board would accept Mr. Mileto's credentials.

Mr. Kelly questioned Mr. Mileto: You prepared the report dated June 12, 2008 that we marked as Exhibit A-6, is that correct? Mr. Mileto stated: Yes. Mr. Kelly questioned: Do we have the right exhibit up for your testimony or is there something else that you would rather have? Mr. Mileto stated: No, that is the latest rendition and would be the best one to utilize. It is slightly changed from the one we have used over the years. The concept is there and my testimony won't change based on this plan or the other plan. They are basically the same. Mr. Kelly questioned: If I could ask you with reference to that exhibit to give the Board the benefit of your analysis and testimony with respect to the location of these two buildings and why they are where they are. Mr. Mileto stated: They are there because in the beginning the design team sat down and had a irregular site and existing conditions to deal with and a surrounding neighborhood of residential uses. Taking all that into consideration, as well as the requirements of the Zoning ordinance for Newton and the Master Plan, we came up with a sketch and a concept first where we located the building then it got refined and refined over a period of time. One of the criteria that the client presented to us is that he wanted no variances. He wanted a completely complying application, if possible. It was a permitted use and if we could read all the setbacks, coverages and balance of the application of the ordinance it would be good planning. Today's negative impacts are traffic and parking to provide for the uses not only for the retailers and businesses. If there is no parking they don't want to rent the space. The parking has to be convenient and work for a commercial use. We attempted and accomplished locating the buildings and the activity. It is outlined in my report. The main activity of commercial use negative impact is in the parking area. That's where the noise, lights, glare comes from. Any potential negative that a commercial use can have on a surrounding residential area is normally in the parking lot. There are two things we can do to buffer and isolate that. One is to provide a buffer in

the perimeter around the residential uses which back against our property. That buffer serves two purposes. One is that it buffers us from the residences and the residences from the commercial. We located the buildings on the perimeter as best we could on the property so that between these residences and our activity is a big block building that stops light, glare, sound and activity from going into their back yards. They don't see the activity in the parking lot. That is how they got located in the concept. That's where they stayed. We see that to be the best solution to the problem. Once the building is built there is minor activity that will go on in the back of the building. That is a route for trucks to go by and do their deliveries. A lot of the trucking is not going to go this way. FedEx and UPS are going to deliver to the front door of the stores because they are in and out. Location of the parking provides adequate off-street parking. We have exceeded the buffering. The buffer required under the ordinance is 10 feet. We made it 30 feet. That is to the parking lot and retaining walls not to the activity or building. We have provided a very serious densely planted buffer in the perimeter to keep those two uses apart as best we could. This was zoned commercial. We are complying with that. The building and parking lot is put where they are to provide a minimum impact on the surrounding properties. The buildings shield all the lighting from going into the residential areas. The parking spaces are turned opposite the residential so they don't shine into the residential areas. The property was difficult in the topography and shape. The engineer did the right thing by keeping the building and the grades similar to what they are without serious big retaining walls.

Mr. Kelly questioned: What you are saying is what the neighbors have to be protected from is the parking lot? Mr. Mileto stated: Yes. The major activity in commercial use is being operated in the parking lot. Mr. Kelly questioned: The buildings themselves are a certain type of buffer? Mr. Mileto stated: They are the best. If you are building something here, you can't be heard, seen or felt on the other side of the building. That building will completely shield any activity that goes on in this parking lot from anyone on the other side of that building. It is a very good buffer.

Chairwoman McCabe questioned: You testified that the negatives on a site like this come primarily from the cars. If that is the case, why didn't you position the building on the southern most part of the property as well and make one long building that would provide total buffer for the neighbors? Mr. Mileto stated: The site grading does not allow that. The grade goes from high grade to low grade. That building would have to have been stepped down and would have been a difficult construction site. Building code wise you get into such large buildings and have to have different fire services and different types of construction and fire rated because they have more restrictive building code requirements. Chairwoman McCabe stated: It is not necessarily so that the back of the building is totally free from bother to the neighbors. The back of the building is generally where there are nighttime deliveries. That is more bothersome than any cars that you would put in the lot for the neighbors. Mr. Mileto stated: It's not my experience that any retail stores get nighttime deliveries. Chairwoman McCabe stated: It has been in ours. Mr. Mileto stated: You do have the ability and the applicant would restrict in their leases hours of operation that would not be detrimental. They don't want any trouble with the neighbors and the neighbors don't want any problems with them. That is

why we are here to resolve both of those issues. They want to run their businesses, collect their rent and live happily ever after.

Mr. Kelly questioned: This would be the time we would like to finish this as an issue. It has been talked about in great length in the January meeting transcript and the February meeting transcript. It has been subject to a lot of reports. We would like to do whatever it is we need to do to make sure we have a consensus. Mr. Soloway questioned: When you say finish with this you are referencing what the building locations? Mr. Kelly stated: Yes so if there is more or if we have that consensus here that would be good for us to know. If we need to talk more, that would be good for us to know as well. Chairwoman McCabe stated: We have been talking about the buildings being put in a different position. I would like to share with the Board a concept that I have been looking at where the building in the most western portion of the property is moved to the middle and move the parking over. Mr. Kelly questioned: Can you put it up so we can all see it? Chairwoman McCabe stated: Sure. Mr. Soloway stated: Let's call the Exhibit PB-1. Chairwoman McCabe could you tell us what it is? Chairwoman McCabe stated: The idea is to move the western most building into the middle and move the parking to the west. Then the southern most building, move the bump out more into the middle so the parking can be in the back. I don't agree with the building as a buffer. That is not always the case. In particular, the building in the southern most area, it would allow for much more landscape buffering in the back of the property. Looking at the topography of the land you all know that the drive around the building as it is proposed is a very steep slope and a very tight corner. It would be a detriment and a possible hazard to have traffic driving around the building in the current position of the building. This is something that we discussed at an earlier meeting. I just wanted to present it to the Board as an option. I wanted to present to the applicant as an option that there might be another way to utilize this property that would give the neighbors a little more buffer and not have the buildings in their back yard. I happen to disagree that a building is always a buffer. If you light it properly with low level lighting and restrict the hours it could make for a very good neighbor without them seeing the back of a big concrete block building. Mr. Soloway stated: That would serve to move it somewhat significantly further away from the residential properties on the westerly border of the property and allow for more of a traditional buffer along that property line meaning a landscape buffer? Chairwoman McCabe stated: Not only that, but right in the center of the site the proposed area for snow storage. If you moved that area to the southwestern corner for snow storage and put the parking in front of the warehouse, that would be even more buffer. You could have green space back there. In the winter it could be utilized for snow. In the summer it could be a green space, which would provide more buffer for the neighbors. Mr. Vandyk questioned: with a significant buffer like that wouldn't you actually be able to leave some of the green that is already there? Mr. Soloway questioned: The concept you are discussing, but as you contemplated there wouldn't be any change in the size of the buildings, correct? It would just be a reorientation and subject to working out the buffering theory there should not be any change in the available parking spaces? Chairwoman McCabe stated: Not that I see. I think you have more than adequate parking and even a little buffer as far as parking spaces. If you did lose a couple because of the way you have to design it, I think you have that buffer. The applicant is willing to

do a site that is agreeable to the neighbors, I don't think this Board will have a problem with discussing a variance. I am not an engineer or a planner and not as familiar to the topography. It seems to me it is better use of the land and less interference with the neighbors.

Mr. Mileto stated: Retail spaces are front to back operation. This building has 3 sides that are front. Somewhere there is going to have to be a back. You can't have 2 fronts and have one back. The building will not break down unless you get a single user like a CVS store or a major user to take up the whole building. It is a difficult building to split up. A long building is much more conducive to that. Retail stores today are around 1800 square feet. When you put parking close to a residential area there will be phone calls. It's not just used for parking. The kids are going to go there with skate boards whether you like it or not. The police will be very busy back there. Mr. Vandyk questioned: Wouldn't the kids go there anyway if there was the original set up? Mr. Mileto stated: Yes. If I make noise or do something here and I have this building here, there is nothing that is going to hear me or see me. That is called a buffer. A big building like that is ideal between the active area and the residences. We have lots of distance and enough buffering. I believe it is enough to keep the peace between the two activities. That is why I am defending that part of it. The applicant would have to take a look at it and we would meet again. Maybe it is better. I haven't studied it enough.

Chairwoman McCabe stated: The southern most building even if it had to be back a little bit I don't think there needs to be any parking back there. If you use the snow storage area as parking and then move the snow area in the back of the building into a green space and you just had to drive around. If you bump the building back that much, I think it is much better. Mr. Mileto stated: I understand and I would have to talk to the client and take a good look at it. Chairwoman McCabe stated: That building has underground parking. Most of the parking is going to come underneath. Mr. Soloway stated: The other point I would make is on the southerly side of the building you could play around with the design and only have one row of parking to the west of the building. Even to the extent you indicated concern with. In that case it would be lights potentially disturbing neighbors. If it is employee only parking, the nature of the parking is that there aren't trips in and out every 45 minutes. Every car would be there for a considerable amount of time. Mr. Mileto stated: That parking lot is going to be empty. Chairwoman McCabe stated: It would have to be employee only. Chairwoman McCabe stated: From where the Board is coming from, it is a site that we are trying to make fit in to a neighborhood with as little bother to the neighbors as possible. Mr. Mileto stated: We have the same goal. Chairwoman McCabe stated: That corner seems to be excellent green space, great buffer, store snow, bump the building up, won't lose any parking, it makes sense.

Mr. Vandyk questioned: The applicant doesn't have any idea of people that are going to come into the buildings, correct? Mr. Soloway stated: The applicant does not have tenants yet. Mr. Vandyk questioned: The southerly building, if people come to you with any idea for a building are you willing to work with people or are you going to set it up with just store after store? Mr. Martorana stated: Right now no one will speak to me

about anything. There is no dialog or talking about anything. When you have something then you come back to me.

Mr. Kelly stated: Thank you for taking the time to move this process along and when you said that we would want to take a look at it, there's not a lot of people waiting to be heard at the moment, could we take a break? Mr. Soloway suggested to hear from the public. Chairwoman McCabe stated: Talking about putting the employees in the back, the northern most building, if it needs to remain a buffer in the corner could it be that you would allow employee parking along that edge? Bump the building over and have designated employee parking and that would allow for landscape buffering and then employee parking and then the building. Twenty five feet makes a big difference. Mr. Mileto stated: They are double loaded driveways and are exactly 64 feet. Mr. Soloway stated: The Board understands that if the applicant is willing to explore this that you can't do that during the break. The Board is trying to find out if the applicant is willing to explore this to try and come up with a way without losing square footage and parking to try to move away from the neighbors. If there is an issue of a few parking spaces, maybe that will not be a concern. Mr. Vandyk stated: We understand that the applicant has every right because it is their property. We are trying to make it so the people of Newton are happy about the situation. Mr. Mileto stated: The building won't be a significant barrier. If it becomes a difficulty, we will tell you. Mr. Kelly stated: My five minute idea was a short hand reference to taking a break and talking about it. There is one other marching order I have for the client and that is to finish this and try to resolve some issues and stop talking about it over and over again. I would like to make an issue and finish it as best we can, go on to the next one and finish it so we are not here in January of next year. Mr. Soloway stated: I understand. This is the beginning of the fourth meeting and that was nine months ago. It's not like we have been there every month. It is a large site and a pretty large scale development with a lot of complexities. The Board would not be doing its job if it did not spend a lot of time examining. Mr. Kelly stated: Let's hear from the public.

Chairwoman McCabe stated: I know Mr. Simoff is not here to address this, but I took a careful look at the truck circulation pattern on there and you have a tractor trailer coming in, backing into the back and being right in the middle behind Quick Chek. It has nowhere to go when it pulls out. If you removed the snow area in the middle and moved it to the back buffer area and you put parking lot there you could create a circulation plan for delivery trucks in that location. It would resolve two issues.

Chairwoman McCabe opened the floor to the public.

Nanette Thomas, 7 Orchard Street. I have been to all the meetings and I have been following this and I think it has been more than nine months Mr. Kelly. It actually has been two and a half years. I understand there is money to be made here and I understand they are trying to work with the people that surround the place. I happen to be directly where it is 10 feet. I counted from my back yard. I like everything that has been done. Since we are only going to talk about this, I don't see how you can agree to accept the buildings without talking about the traffic. The reason I am going to say this because you

are not from Newton. Anybody who is in this town knows all it takes is one little thing to screw up the traffic. There is only one way in and one way out. I know many times I simply wanted to make a right hand turn and go somewhere and I couldn't. I'm thinking to myself with these trucks and there will have to be garbage trucks to pick up the garbage and there will have to be snow trucks to push the snow. There will be kids that will have to walk on what since you will have this third lane? We haven't even talked about sewer and water, which I understand we are already strained at with Town development. My big concern is the traffic. I know everybody said once they are in there or once they get out, whether you are making a left hand turn or right hand turn. However you are trying to get in there. This is just with Quick Chek. I know you said there is a light. There is still a long time to wait to the point where, I live on Orchard Street, I don't go down and turn on Sparta Avenue. I go up to Pine Street and down and around. I know every short cut through this town because they are three major times in the day without an ambulance or anything else are what I call back up times. This isn't even getting to Christmas. I am also concerned about the fact that you don't have anchors. I can understand why you don't, but we do have something similar to this right down the road next to Bagel Bistro, which I have seen is empty and not being built for the last 10 months. I don't know why, but I wonder if you approve this and it is not sold or leased. Now I have lost the trees, the land, the deer, the air, the coolness, whatever there is of the summer, and I am looking at an empty buildings. There are so many in this town. I realize also that it would not be fair not to approve some kind of plan. I am pretty sure the last time I came, and I have come to all the meetings, that there was a discussion about since that is a County road. Didn't we need a letter or County approval for anything to be done on that road? Mr. Soloway responded: Yes. I am hoping that you are going to tell me that you heard something. Ms. Thomas stated: I realize that I talk too much. I guess I am more concerned about, you can build it, how am I going to get to it? How am I going to get out of it? How I am going to get out of my house again? When there was the Able explosion I left town. They didn't ask me to leave. I left and went someplace for a week until they could figure it out. That's how bad it is for one little accident and there have been many accidents on Newton Sparta Road. I don't know if we ever asked how many, but I know there was several motorcycles just trying to get in and out and that was without the three lanes. My concern is traffic and safety. Otherwise I will just find another road to get out of this town. Thank you.

Ken Hardmeyer, previously sworn. 70 Pine Street. I live across the street from the development. I have a few comments. First of all, I would like to thank the Board for coming up with what I think is a much better plan that was originally been presented. Even though I realize it has to go through a few girations, but I certainly disagree with a lot of what the planner says. I agree viamently that no variance means good planning. I don't buy that one at all. You said negatives come only from the parking lot. I think if there is a lot of air conditioning racket up on the roof of the buildings for heating and ventilation and whatnot. We are certainly going to hear that. I would think I don't agree that only negatives are going to come from the parking lot. I think the negatives are going to come from everywhere on this site. A building a buffer? I don't know where you come from sir, maybe in Clifton a concrete wall is a buffer, but I don't think in Newton us neighbors would consider a concrete wall a buffer. What about the drive-thru

parking? Has that issue been resolved? Will there be drive-thru type establishments here? Are you going to be driving around through the back supposing you don't move the location so you have people driving around the back to a drive-thru window or something like that? Mr. Mileto stated: We don't know who the tenants are. Yes there could be drive-thru facilities proposed within the ordinance and permitted uses. Mr. Soloway stated: I guess it is not entirely clear to me at this point. Maybe it should be clear whether there are any drive-thru facilities proposed as part of the current plan. If there are not and the applicant got an approval and later had a tenant say a bank or something that wanted a drive-thru, the applicant would have to come back on some kind of amendment to get approval for that. It is not clear to me because it was discussed whether there is a drive-thru included right now. Mr. Donahue would know. Mr. Donahue stated: One on each building. Mr. Hardmeyer questioned: Where about on the buildings does anyone know? The back, front, side? Mr. Donahue stated: The back.

Chairwoman McCabe stated: Perhaps Mr. Donahue could show us. Mr. Hardmeyer questioned: So there are drive-thrus proposed? Mr. Donahue stated: There have been drive-thrus proposed from the beginning. On our northern 12,000 square foot building there is a drive-thru in the rear. On the larger building there is a drive-thru also in the rear on the aisle. So there are two drive-thrus proposed, one for each building. Mr. Hardmeyer stated: So the traffic could be a lot more than eluded to by the planner than some occasional car driving through there. A drive-thru could mean quite a bit. Mr. Donahue stated: Depending on the use.

Mr. Hardmeyer stated: If you don't mind, there is something I would like to bring up from the February meeting. It involves some planning issues I believe. Environmental planning. At the February meeting you may recall there was discussion of Environmental Impact Statement. I didn't make last meeting so I don't know if that issue got discussed at all but I have a couple of things I would like to say about that. Mr. Kelly objected to doing this at this time. I wanted to yield on the subject. We didn't talk about it at all and it's not going to help anybody to do it now. Mr. Soloway stated: Number one, yes an Environmental Impact Statement was permitted but I think for right this minute they wanted to limit the discussion to tonight's discussion. It is not your last opportunity. Mr. Hardmeyer stated: The reason I wanted to bring it up, if you give me a couple of more minutes. Because our ordinance, Section 20.5.4, "Says no building or structure shall be permitted to be developed on those lands to be environmentally sensitive e.g. naturally occurring slope, wetlands, and flood plains. Precise determination of the extent of such environmental lands may be provided by the applicant subject to verification by the Town Engineer." To me this is a significant planning consideration. If you give me a minute more I can tell you why. First of all, there are some steep slopes on the site. Our Town Engineer, Mr. Wentink said that if you look at sheet 3 of 8 there are areas in back of Ridgewood Plumbing Supply that may be as high as 15 percent and he said the areas near the 28,000 square foot would be the lower one has areas that are over 15 percent. In fact, they are closer to 25 percent. I measured them from the maps the applicant presented. I do have a few qualifications to measure some slopes. If that is true, in my opinion what is going on here is against your ordinance and I would think would need a variance. Let me bring up one more thing. Another part of the ordinance Section

20.5.14 talks about gross density of floor area ratio. Mr. Hardmeyer read the ordinance: "Adjustments and parcels contain environmentally critical slopes, steep slopes of 15 percent or more, wetlands and areas within the 100 year flood plain requires a reduction in floor area of buildings located in environmental critical areas." Have you factored that into your plan? Mr. Mileto stated: No. Mr. Kelly stated: I am going to ask you not to answer that. We are not talking about that. Mr. Hardmeyer stated: You are talking about the planning and your building location. It looks to me that the building cannot be located where they are without variances. It is all in my testimony, but it seems to me meeting your ordinances that's where we are. Mr. Kelly stated: No, that's not where we are. In an event, do we have any other comment on this?

Nanette Thomas stated: The only reason I didn't address this is because I thought we weren't going to do this, but now I hear the word drive-thru again and I just want to state that would definitely change my opinion which right now I am leaning toward saying not liking this. When I think of drive-thru I think of fast food, Dunkin Donuts, young kids, more police, and late hours. There is a big difference between a bank and a restaurant. Just so you have an idea of what I as a consumer would be interested in is a bakery, deli, stride rite shoe store because there are no shoe stores and Marty's is going bankrupt, perhaps a clothing store for women so we don't have to go to the mall, even a small vegetable or grocery, or a real butcher. All these things I would like as a person who tries to shop locally and would not like to have to go that far and go on Route 206, which is a mess right now. That is all I am going to say right now, but I hate drive-thrus.

Mr. Kelly stated: We want to take a serious look at it. We want to see what we can do and we want to get back to you rather soon with something rough that you can take a look at and respond to us and we can come back to the next meeting hopefully further along. That is all we have to say. With that in mind, we don't have any other testimony to present tonight. Without wanting to end on a sour note, I would like to ask you very sincerely to not give me reports anymore on the day of the meeting that are very substantial that we have to answer when they have been here several days before. Chairwoman McCabe stated: That situation has been addressed. Mr. Soloway stated: The Board apologized that was just a mistake in this instance. Mr. Kelly stated: Understood. That is all we need to say. Mr. Soloway stated: The applicant can't be expected to address a report of any substance when the applicant doesn't see it until a few hours before the meeting. In your case, and I don't know when the rest of your groups are. I work both sides of the street and there is nothing worse, and it has happened to me many times walking into the hearing and getting the report. Mr. Kelly stated: It used to be the way it was done around here. Mr. Soloway stated: Better yet have the Chair say "is the applicant prepared to respond to the engineers report?" And to hear me say "what engineers report?" Mr. Kelly stated: Thank you everybody. Mr. Soloway stated: So the applicant is willing to take a good faith look at what we discussed. I suppose we should carry this to a date close Madam Chair. Chairwoman McCabe stated: Yes, October 15, 2008 at 7:00 pm. We have a clear agenda for that night. Mr. Soloway questioned: October 15, 2008 at 7:00 pm with no further notice. The applicant consents to this extension? Mr. Kelly stated: Yes.

#SP 08-07 Martorana Enterprises, Block 1201, Lots 5 & 5.03, 100 & 104 Sparta Avenue. Carried to October 15, 2008 at 7:00 pm with no further notice.

Ms. Millikin stated: As you all know in your packets from the last meeting was for COAH. We have to do our council on affordable housing in our plan for the Town. Jessica Caldwell did send over a memo with her amount towards that and one of the things we were trying to figure out is how we are going to fund it. We have to have it done by December 31, 2008. She found in the State Statute and the COAH Statute that 20 percent of the housing trust fund, as long as it doesn't exceed 20 percent, you can utilize the housing trust fund in order to subsidize the cost of the Fair Share Housing Plan. She has given us the Statute, so what we are going to do is give her the authorization to begin that so that can be filed and done December. Mr. Soloway stated: The Town is under a pretty tight deadline. We don't want to miss the December 31, 2008 deadline. Ms. Millikin stated: My concern was that I wanted to make sure we had funding in place, which we did. Chairwoman McCabe questioned: Do we need a motion for her to proceed with that? Ms. Millikin stated: I would like to get one.

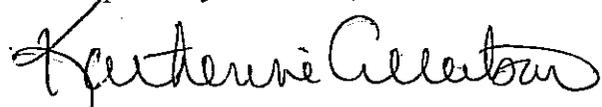
Mr. White made a motion to authorize Jessica Caldwell from Harold Pellow and Associates to proceed with preparing our COAH Fair Share Housing Plan based upon the estimate that you have provided. Mrs. Fowler second the motion.

AYE: Mrs. Fowler, Mr. Ricciardo, Mr. White, Mr. Vandyk, Mr. Russo, Chairwoman McCabe

Ms. Millikin stated: The only other item was the November 19, 2008 meeting League of Municipalities. Chairwoman McCabe stated: Cancel the November meeting because we have the League of Municipalities and then Thanksgiving. We will make the December meeting earlier.

Mr. Ricciardo made motion to Adjourn. Mr. Vandyk second the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 9:50 pm. The next regular scheduled meeting will be held on October 15, 2008 at 7:00 pm in the council chambers of the Municipal Building.

Respectfully submitted,



**Katherine Citterbart
Planning Board Secretary**

Exhibits

Exhibit A-5 Revised Plan dated September 4, 2008

Exhibit A-6 Mr. Miletto's report dated June 12, 2008

Exhibit PB-1 Item of discussions