

Planning Board Meeting

August 13, 2008

Special Meeting of August 13, 2008 at 7:00 pm

The special 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 not a quorum.

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

Members Absent: Mr. Caffrey

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

FLAG SALUTE

Chairwoman McCabe read Greg LeFrois' resignation letter.

CONSIDERATION OF MINUTES:

Mr. Ricciardo made a motion to approve the minutes of the July 16, 2008 meeting. Mr. VanDyk second the motion.

AYE: Ms. Fowler, Mr. Elvidge, Mr. Ricciardo, Ms. Kithcart, Mr. Vandyk

ABSTAINED: Mr. White, Chairwoman McCabe

Chairwoman McCabe took nominations for Vice-Chairperson. Mr. Ricciardo made a motion to appoint Mr. White as Vice Chairman. Mr. Elvidge second the motion.

OLD BUSINESS

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

Conditional use. Representing the applicant is Mr. Wayne McCabe, McCabe and Associates, Licensed Professional Planner, previously sworn.

Chairwoman McCabe recused herself.

Mr. McCabe stated: I would like to recap the changes in response to comments from the Board and professional staff at the last meeting. On Page 2, Site Plan, we have added the sewer and water lines extending out from the house toward the road. We have also changed the lighting and have provided additional lighting, on Sheet 3- the lighting unit. We also provided a post fence footing detail that Mr. Simmons had requested. Additionally, we provided information on the plantings you proposed. The plantings and the plantings schedule was based on the fact that the initial proposal was to have 3 parking spaces between the new sidewalk and the new stairs leading into the side of the house. We have altered that as a result of last month's meeting. We have moved 2 of the parking spaces to the rear keeping 2 in the front and where the third was closest to the sidewalk we put in 2 different types of plantings, a colluner japanese juniper and the other a compact juniper. The compact juniper is the one on the ground that is cross hatched and the other is the 7 items that are shown by symbol in between the compact juniper and the parking area. The parking areas in the front are 11 feet wide, wider than normal. This is to provide a greater swing and ability to get in and out of the parking spaces. As you saw on the video disc at last month's meeting, cars can pull out of this area without difficulty and staying in the property lines. What we have moved 2 spaces in the back creating 4 spaces, which was requested. There is sufficient back out parking and turn around area to come back so there is at least 24 feet in back of the 2 rear spaces that are 9 feet wide. This preserved the brick patio that was immediately behind the

house. It did create a situation where it extended the parking area further into the back yard possibly than what might be advantageous. Therefore, I prepared an alternative marked Exhibit A-8. We have taken the parking area number 3 and 4 that were in the back of the brick patio, eliminated the brick patio and pulled them up which created a much greater lawn area, but didn't break up the back yard. This way if the applicant was using space number 4 for his personal vehicle, if he wanted to he could pull his car up and the area in the back could be a patio up there. That does allow for one continuous expanse of the rear lawn and eliminates some of the impervious coverage on the lot by bringing it up further. I also put in the 5 foot area between the pavement and the side of the house so he could have additional planting in there to create a ground level foundation planting. We ask that you consider this an alternate instead of the one in front of you because it provides for a better layout and won't be packed around the house. Mr. Soloway questioned: You moved the rear portion forward? Mr. McCabe stated: Yes. Mr. Soloway questioned: You eliminated some of the grass that now exists south of the brick patio? Mr. McCabe stated: Yes. Mr. Ricciardo stated: And the sidewalk? Mr. McCabe stated: The sidewalk is eliminated also. Mr. Soloway questioned: What about the brick patio? Mr. McCabe stated: Maybe he will use the bricks for a fireplace. Mr. Ricciardo questioned: The steps that go to the rear porch go to directly into parking spaces #2? Mr. McCabe stated: Yes, but those steps lead into the applicant's office area and would not be a point of access for any of his patients. They would come through the front door. Mr. Ricciardo questioned: What is the height and size of those bushes that you are putting up front? Mr. McCabe stated: On Sheet 3, the compact juniper to be 18-24 inches in size and the collunder juniper is proposed to be 6 feet. Mr. Simmons also wanted to eliminate one of the collunder juniper close to the sidewalk to eliminate the possibility of a problem with site distance. We have no problem in moving that to along side of the house. We will be adding 3 there anyhow. We also added on Sheet #2 the parking calculations and lighting notes. Mr. Ricciardo stated: Mr. Simmons says you need 4 parking spaces for each doctor plus one space for each employee, whatever is applicable. You have 4 spaces. Do you need a variance for the one space? Mr. Simmons stated: The representation that I understand it was that he doesn't have any receptionist or employee, so we did not add that space in. So 4 would be required and 4

are proposed. Mr. McCabe questioned: The surface treatment, we are not sure exactly which way we want to go in terms of whether it will be asphalt or cast stone block. If we had the cast block or asphalt on the first 2, which is the area in the front and used by the patients, is it possible to have consideration to have the rear with the QP5A roll down? Mr. Ricciardo questioned: You mean spaces 3 and 4 that are used by the public or doctors patients? Mr. McCabe stated: 3 would be the overflow, 4 would be the doctor's space. Mr. Ricciardo questioned: Are you talking about the entire rear and from what point back? Mr. McCabe stated: If you drew a line from the area on the plan in front of you right now, in the middle of where it says "existing stonefish pond." Mr. Ricciardo questioned: Straight down in the rear would be a mix of stone, dirt and clay. It compacts very well. Mr. Ricciardo questioned: How would that be contained in running out in heavy rain? I know it compacts very well, but it still runs when flooded. Mr. McCabe stated: It would go down into the lawn. It is on his property and it goes straight down. He is going to relocate the stockade fence on the southeasterly side and relocating it along the line. Mr. Elvidge stated: The difficulty with that is you are asking for this to be reviewed as a professional office and if anyone else had come before the board and ask a situation like that continuity doesn't exist where you are paving it and dropping down to a crush stone mixture. At first glance, I don't agree with that because space 3, the back out, and the turn around is still for professional use and technically space 4 is too. Mr. McCabe stated: That is the doctor's parking space. Mr. Ricciardo stated: I need an interpretation of the code regarding parking. It says "4 spaces for each doctor." Does that include the doctor or does that mean strictly for use by patients? Mr. Soloway stated: It is a total of space including the doctor. Ms. Millikin stated: That's the way I interpreted it. Mr. Ricciardo stated: I agree with Mr. Elvidge that I would prefer to see pavers over mentuminous area. Mr. McCabe stated: The cost of asphalt has jumped dramatically since March 2008. Even if we could have that section deferred and have a bond against it for the extra paving. I am trying to moderate the expenses being put out front. A bond would assure that within a year it will be paved. Mr. Soloway stated: You would go from gravel to paving? I don't understand how that makes financial sense. Mr. McCabe stated: The base has to be put down first. Mr. Soloway questioned: That would be the base? Mr. McCabe stated: Yes. You have a 6 inch base. Mr. Ricciardo

questioned: Would that be a cash bond? Mr. McCabe stated: A cash bond or one that will be taken from Selective Insurance that would have it at 125%. Mr. Ricciardo stated: I would prefer to see it completed all at once. Mr. Elvidge stated: I would like to see it completed at it's entirety. Mr. McCabe stated: I would ask that the Board give serious consideration to the alternate plan that I have as Exhibit A-8. Mr. Ricciardo questioned: Can we vote on that plan or do we need revised plans for the record? Mr. Soloway stated: You can vote on it unless Mr. Simmons indicates there is a problem on his end.

Mr. Simmons stated: What would happen if the Board were to vote to approve the alternate it would be subject to a revised plan to reflect that exhibit. I do have a few more things. I went back and checked the ordinance. There are additional variances. On Page 2 of my report, 2c- Section 20-5.21 calls for driveways on residential lots can be no closer than 3 feet to any side or rear property line. The proposed driveway is right on the southerly property line on a subject lot in the R-3 residential zone, therefore a variance is needed. If you look at Sheet 2 of the Site Plan, along the southerly side where the bearing says south 52000 west 169.36 feet, on top of the text is the property line. They are proposing to run the pavement up to the property line. There would be a variance required for that. Mr. McCabe stated: On the plan where the driveway is right now, it is along the property line. We are proposing an extension of that. We have an existing condition already along that line. Mr. Ricciardo stated: The existing driveway is gravel. Mr. McCabe stated: The driveway is on and along the line. Mr. Soloway questioned: Mr. McCabe is acknowledging it is a variance that is in violation today as well.

Mr. Simmons went on with his report. Item E, Section 20-8.3f prohibits off street parking in the front yards of single family detached or duplex residential dwellings. Subject building is in the R-3 residential zone and will have a residence on the second floor. Portions of proposed parking space 1 and 2 are within the front yard area. A variance is required and Board attorney make a comment. Mr. Soloway stated: Yes, a variance is required. In the initial plan that was a Board suggested variance. Mr. Ricciardo stated: He was going to park all the way up to the front lawn. Mr. Simmons

stated: Item F, the applicant is now proposing 2 new parking spaces between the right of way line of Trinity Street and the existing steps leading to the building, the 2 parking spaces behind. The applicant to explain the following to the Board. Will parking spaces 3 and 4 be reserved for the applicant? Number 4 is reserved for the applicant. Any restrictive areas to be marked as such. My suggestion is to have a little sign saying "doctor's parking." Is the relocated fence going to have a stockade fence on the southerly side of the lot going to have a gate across the driveway or is the fencing going to be eliminated entirely? Mr. McCabe stated: Eliminated entirely. Mr. Simmons stated: Signage, Comment #4. Mr. McCabe stated: We are going to reduce the size to make 2 feet. Mr. McCabe agreed to all the comments.

Mr. Ricciardo stated: There are 6 variances required based on the lot, area, side and lot width, front yard, side yard which are existing conditions and the proximity of the property line and the location of parking spaces beyond the front plain of the main structure of the front of the house. Mr. Simmons stated: No variance for the sign because they will reduce the size. Mr. Ricciardo questioned: The entire stockade fence will be eliminated or are you going to run a new stockade fence between your paved area and the adjacent property? Mr. McCabe stated: Down the side we are going to run it. Mr. Ricciardo questioned: A new stockade fence. Mr. McCabe stated: They took the fence sections down and relocate the posts on the line and then resecure the fencing. Mr. Ricciardo questioned: Is there enough stockade fence to reach the rear of your petumenous area? Mr. McCabe stated: More than enough. Mr. Soloway questioned: Exhibit A-8, if the Board were to vote to approve this application with the design on Exhibit A-8 and the approving resolution referring to Exhibit A-8 is all the other information relating to the proposal shown on Exhibit A-8? Mr. McCabe stated: With the exception of changing note #7 from 5 inches of QP5A to 6 inches. Otherwise, everything is on there. Mr. Simmons stated: Ms. Millikin pointed out that Section 20-5.20 under Fences there is a requirement that Section 20-5.20b no fence or wall should be placed within one foot of any property line unless a single fence is placed along a common property line as agreed to by joining owners. I am taking this plan as the stockade fence, even though it is relocated, would be right on the line because of the dimensional

constraints, there technically would be another variance for that as well. Mr. Elvidge questioned: Are you sure? Past consideration has talked about signage being removed, does that pertain to fencing too? If it has been removed, is that voided now being able to put it back in the same spot or is he required to have that setback? Mr. Simmons stated: Technically by the zoning ordinance it has to be a foot off. Since it came down, if you let them put it back on the line again it is a variance. Mr. Elvidge questioned: Can you give a variance for that when it is affecting the joining property owner? Mr. Simmons stated: The applicant is proposing to keep the fence structure entirely on their side of the line. The post would be on the inside of the applicant's property and the finished face of the stockade would be facing adjacent Lot 35.01. The plain of the finished face would be at or slightly inside the property line of this applicant. It should not be on the adjoining property line. Mr. Elvidge questioned: Even a brand new fence going up on any property they can put it right on the line? Ms. Millikin stated: No, they have to get the sign off of the adjoining property for it to go on the property line. Mr. Ricciardo questioned: How can we grant a variance for that? We would have to grant a variance for the sign off of the adjacent property owner. Ms. Millikin stated: I think you could grant the variance based on the fact that it is still going to be on Mr. Nause's property. It is just under the requirement of being a foot off the property line. Mr. Ricciardo questioned: Has the fence been taken down in its entirety? Mr. Nause stated: Yes. Mr. Ricciardo stated: Now that the fence has been taken down in its entirety, in order to meet the existing ordinance it would have to be moved one foot in from the property line. How could we grant a variance on the adjacent property owners signing off on it? That would be going against the property owner's rights to sign off on it. I don't see how we could do that. If it is down, it's gone. Mr. Soloway questioned: Mr. McCabe is that in your notice? Mr. McCabe stated: No, we put our general review comment in there that said any and all such other relief as the Board may deem necessary and appropriate in order to grant the approval for the plan. Mr. Soloway stated: I don't have the opinion that notices in order to be valid have to list each and every variance that an applicant is requesting. Under the law, you are required to give fair notice to the people that are receiving the notice of what it is you are proposing. A legitimate point has been raised. This variance directly impacts that property. I am troubled that the property owner has

not had specific notice of that variance. In other words, the property owner of Lot 35.01 may have seen your notice, may have reviewed the plans and decided not to attend this hearing because those plans did not present anything that was objectionable. If it was shown that a fence was going to be right on the property line, maybe they would have a different reaction. Mr. McCabe stated: I would offer the alternative. The fence is almost 7 feet over the property line and we are pulling it back off his land to the line. We are improving his situation. Mr. Ricciardo stated: I understand, but you have taken the fence down. It is no longer in place. This Board now has an obligation to grant you a variance if they sign off on it. If they don't sign off on it, and they were not notified that the variance is going to be required, how can we grant a variance without them having proper notice? Mr. Soloway stated: Maybe you can grant the variance contingent upon a written sign off by the property owner. Mr. McCabe stated: If we get the sign off, then I don't need a variance. Then I would be allowed to put it on the line. Ms. Millikin stated: With any fence permit that we have come in when a new fence is being erected, if the two property owners on the property line both sign off on the permit, we are allowed to sign off on it based on this ordinance. So if Mr. Nause gets the sign off from the neighboring property owner, I have no problem signing off on it. Mr. Soloway stated: That eliminates any issue I might have for curing a notice by having the property owner sign off. It also leaves us to the conclusion that you have to have the property owners sign off for the fence to be there. The alternative is that or re-notice so the property owner knows that is what you are doing and then grant the variance. I assume the applicant's preference is to get the sign off from the neighbor. Mr. McCabe stated: Yes. Mr. Ricciardo questioned: Does your new Exhibit A-8 show the new fence in its entirety? Mr. McCabe stated: Yes. It said it would be going down along that line. We will make sure there is a note saying that is where it is going. Mr. Ricciardo stated: The plan in front of me says 45 feet of fence. That is longer than 45 feet. Mr. McCabe stated: There is no fence right now. Where the fence used to come across, from that point to the front of the property there is no fence. Mr. Ricciardo stated: OK. There is no fence in the rear because you have taken it down. Mr. McCabe stated: Yes. Mr. Ricciardo stated: When you come in with a revised drawing it will have to show that entire fence. Mr. McCabe stated: Yes. Mr. Ricciardo stated: I have no problem to his alternate at all.

It is an acceptable solution. We pushed to get 4 spaces and that is a way to provide it. If you can get the property owner to sign off on it, I have no problem with that either. These are all existing conditions for the Lot size, the width, the front yard and the side yard. I don't have a problem with those variances either.

Mr. Soloway stated: If the Board grants an approval, my inclination would be to put language in the resolution indicating that the 4 spaces are premised upon the fact that there is only one professional/employee on premises. If someone else came along and it was a 2 employee office, there would be a different requirement. It would be conditioned in affect on there only being one employee. Mr. Ricciardo stated: One physician, no employee.

Mr. Ricciardo stated: How many variance are we talking about now? 4 that are listed. Mr. Soloway stated: Four that are technical because they are pre-existing and 2 new ones. Mr. Ricciardo stated: One is for the front yard parking. Second is for the metuminous area up against the existing property line. Four of them are for existing conditions. Then the stipulation that he will get the property owner to sign off on location of the fence on the property line. There will only be one parking space designated for the physician and no employee parking. The other conditions would be compliance with recommendations set forth in the August 6th report of Mr. Simmons. The approval would be to approve the revised plans that were submitted with the last application package as further revised by Exhibit A-8, with a fully revised set to be submitted to Mr. Simmons subject to his approval.

Mr. White opened the floor to the public. With no public coming forward Mr. White closed the public portion of the meeting.

Mr. Ricciardo made a motion to approve the motion. Mrs. Fowler second the motion.

RECUSED: Chairwoman McCabe

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

Chairwoman McCabe returned to the Board at 7:40 pm.

Master Plan Public Hearing

Ms. Caldwell stated: I was asked to make 2 changes. Both were addressing goals of the Town. The first one was to address buffers. I added a goal under residential goals and objectives to create and maintain buffers where residential development abuts more intense uses. The other goal was related to circulation. There was a request to add something with respect to supporting a railroad in the Town. I added under Circulation Goal and Objectives to support the development of rail service to the Town of Newton or within reasonable proximity of the Town transit.

Chairwoman McCabe opened the floor to the public.

Mr. Soloway stated: I prepared a resolution and the resolution would be to approve the Master Plan Re-examination Report and the Master Plan Re-examination Report prepared by Ms. Caldwell was the Municipal Land Use Law, of the Re-examination criteria of the fact that this was a re-examination and a conclusion in the re-examination report the Master Plan that was presented and discussed should be updated as reflected in the actual plan you saw. Chairwoman McCabe stated; There will be a motion adopting the Master Plan Re-examination Report as well as the Master Plan dated August 2008 prepared by Harold Pellow and Associates.

Ms. Kithcart made a motion to approve the Master Plan. Mr. Ricciardo second the motion.

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

#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 was Mr. Anthony Fiorello, Esq., sworn previously.

Hall Simoff, 466 Southern Boulevard, Chatham, New Jersey, sworn.

Frank Mileto, 13 Beaver Brook Dr., Long Valley, New Jersey, sworn.

RECUSED: Mr. Simmons, Ms. Caldwell, Ms. Kithcart, Mr. Ricciardo, Mr. Elvidge
Mr. Fiorello stated: This is an application in respect to the Block 1201 Lots 5 & 5.03, 100 & 104 Sparta Avenue. This is in the C-4 General Commercial District. This application represents proposed construction as a permitted use in the C-4 Zone. There are no variances requested. We have been here on other occasions and have received reports from your engineers and have addressed those concerns in letter communication with Mr. Donahue, our engineer who has testified to your engineer. Those reports should be in your file. When we were last here, we had an amendment to the application both verbally and in letter that had to do with a subdivision that was originally part of this application. These were 2 Lots and there was an attempt to straighten out the lot line. We determined that was not necessary and there was no need for a subdivision rather a consolidation into one lot since they were consolidated by law. We withdrew the application for a subdivision. This is a site plan with a conforming use, no variance.

Chairwoman McCabe questioned: It was 2 separate lots originally, you were just straightening out the line? Mr. Fiorello stated: Yes. It had a lot line that was not straight. It was a lightening bolt. We tried to straighten the line to make 2 lots. We determined that it was not necessary. Since it was the same owner we would create one lot. There will be no lot lines separating the two. Chairwoman McCabe stated: You are withdrawing your lot line adjustment? You are requesting combining two lots together?

Mr. Fiorello stated: Yes. Chairwoman McCabe questioned: How does that affect their application Mr. Soloway? Mr. Soloway stated: It makes it slightly different. I don't think it has any significant impact. In the absence of the site plan will likely consolidate the lots without authorization from any Board. That is their right. They own each lot. In terms of the plans submitted, I don't that you require that they be revised right now because a plan showing the lot consolidation would show an arrow drawn to the boundary between the lots saying Lot 1 to be eliminated, subject to Mr. Wentink's input. I don't have a problem if the application gets approved. Chairwoman McCabe questioned: It does not affect notice? Mr. Soloway stated: No, consolidation is not a subdivision. It is not something that in isolation requires approval from the Board. The property owner has the right as long as they don't create a non-conforming condition to deed 2 properties to itself and record them. Mr. Fiorello stated: We put this on the record last time.

Mr. Fiorello questioned Mr. Simoff: Are you a principle of Simoff Engineering Inc.? Mr. Simoff stated: Yes I am. Mr. Fiorello questioned: Can you give the Board your educational experience and qualifications as an engineer? Mr. Simoff stated: I am licensed professional engineer and a licensed professional planner. I am a graduate of New Jersey Institute of Technology. I have been an adjunct professor of the New Jersey Institute of Technology. I am a fellow with the Institute of Transportation Engineers. I have been qualified in the Superior Court as a professional engineer. I have been qualified for Planning Boards from Sussex and Bergen County to Cape May County as a traffic engineer and as a planner and as a professional engineer. Mr. Soloway questioned: You qualify as both a traffic engineer and a PE? Mr. Simoff stated: Yes. Chairwoman McCabe stated: We accept the Mr. Simoff's qualifications.

Mr. Fiorello questioned: At the request of the applicant had an occasion to review the site with respect to interior and exterior traffic flows, did you not? Mr. Simoff stated: Yes. Mr. Fiorello questioned: You prepared a report in connection with that? Mr. Simoff stated: Yes. Mr. Fiorello questioned: Can you tell the Board what the observations and findings were in this assignment?

Mr. Simoff stated: The first issue is the modifications to the site plan because I was part of the team that dealt with Sussex County in revising the access. On the board in front of you is the plan with the revision #5 of June 11, 2008. That is the result of the discussions and feedback both ways with Sussex County on how to develop the access and the road. The building location and parking configurations is the same as what has been. What we did was changed the driveway configuration. Originally we had three driveways. One on the small right of way on the west side of the site, one in the middle in between the Quick Check building and the office building, and one on the east side of the site near the eastern property line. The County came back and said they would prefer to have 2 means of ingress and egress. We went back and forth with discussions and feedback. It was determined and agreed that the western driveway be unrestricted ingress and egress so that you can make left turns in and out. We designed it with 2 lanes coming out and one lane going in. Mr. Fiorello questioned: Was that determined and agreed with the County officials? Mr. Simoff stated: Yes. The unrestricted driveway has been modified to make it with an island to make a right turn in and right turn out. We are proposing a road widening with left turn lanes to get into the site. Mr. Fiorello questioned: On what road? Mr. Simoff stated: Newton-Sparta Road. This plan will be modified. There is one more coming from the County. They wanted us to provide left turns into the site across the street where the tractor dealer is. On the west side of the intersection this area that is striped will become an opposing left turn lane. We will modify the plan to reflect this change. Mr. Fiorello questioned: These were recommendations of the County? Mr. Simoff stated: Yes. We had multiple meetings with the County Engineering Department and Planning Department. There is more surveys that they require. We are eliminating 10 parking spaces in front of the two story building so that the curbing on Newton-Sparta Road will be parallel. Mr. Ricciardo questioned: Where would those 10 spaces go? Mr. Simoff stated: We are reconfiguring the parking within the site. The parking requirements will meet the total required. Mr. Soloway questioned: How are you reconfiguring the parking in the site? Mr. Simoff stated: Behind the Quick Chek building. We are adding parking going south. We are paving and adding parking in the western portion of the site. We are redoing the entire site. We are adding pavement. Mr.

Ricciardo questioned: We are adding pavement to what area? Where it was supposed to be fenced in for future parking? Mr. Simoff stated: That area will stay the same until something happens to the warehouse. We are adding parking to the south side of the site. Mr. Vandyk questioned: How will those people walk from the spaces to the building? Will there be a sidewalk? Mr. Simoff stated: No, they will walk within the lot. Instead of pulling up in front of the building, you will find a parking space and walk to the building. Mr. Vandyk stated: I don't like that idea. Mr. Simoff stated: The alternative is those cars backing out into the street. Mr. Ricciardo stated: I like the idea of them not backing up into the street. I understand when you have an office complex you sometimes have to walk from the parking space to the office. It is a much safer situation. We have to provide walkways for them to get there. Have we included a decel lane out of Newton going toward Sparta? Mr. Simoff stated: No. The lane is wider than normal. It is a 14 foot lane. Mr. Ricciardo questioned: Can 2 cars fit? Mr. Simoff stated: Probably not. Mr. Ricciardo stated: One suggestion made from this Board is one of those entrances should have a decel lane so that the cars turning into it don't stack up and tie up Newton-Sparta Road. Mr. Simoff stated: This is the plan that meets the Master Plan requirements of the County. They have a Master Plan for road widening and development of roadways. We meet that plan. Mr. Ricciardo questioned: They have reviewed and approved this in its present state? Mr. Simoff stated: They want additional survey information and add a left turn lane to the tractor place. The County will approve this plan. Mr. Ricciardo questioned: You are going to widen the road for the left turn lane. From what point to what point? Mr. Simoff stated: The widening is along the entire frontage. We have to shift the road to the right. Mr. Ricciardo stated: You have to shift the whole length of the property in? Mr. Simoff stated: Yes. We are shifting everything south to make the turn lane and within the right of way shifting north. Mr. Ricciardo questioned: That will have to occur on the other side of the driveway too? Mr. Simoff stated: Yes. There is curbing on both sides. Then going toward Sparta to the East we are widening also. Chairwoman McCabe questioned: You have approval to do that from the County? Mr. Simoff stated: Yes. There is a letter from July 23, 2008 from the County. Mr. Ricciardo questioned: Do you have anything from the County that tells me that if you make these two left hand lane turns on the County road they will approve this as you present it to us?

Mr. Simoff stated: Yes. This review letter says that. On the page Review Notes and Comments. Mr. Simoff read the Review Notes and Comments. Mr. Soloway questioned: It is the new sidewalks shown on the plans? Mr. Simoff stated: Yes. Sheet 2 of 8.

Chairwoman McCabe questioned: What are your plans for stacking on the left hand lane? Mr. Simoff stated: We can stack 3-4 cars in each lane. Chairwoman McCabe questioned: How many total parking spaces? Mr. Simoff stated: 274. The traffic that goes east would go out the middle driveway. Mr. Ricciardo stated: I would suggest that you petition the County for a traffic signal. Mr. Fiorello stated: We talked about a traffic signal. It is absolutely that we can't get a traffic signal approved there. We don't meet the minimum volumes for a traffic signal. There has to be 150 cars an hour exiting the site for 8 hours. Discussion ensued.

Chairwoman McCabe questioned: Mr. Simoff have you gone to the Quick Chek and taken a left turn between 5 and 6 pm? Mr. Simoff stated: Yes. Chairwoman McCabe questioned: How long did it take you to get out? Mr. Simoff stated: Depends on the backup at the light at Diller, but as little as a few seconds or as much as a minute. Mr. Elvidge stated: At certain points of the day it is definitely more than a minute.

Chairwoman McCabe stated: I am concerned with the stacking and the way you have it designed. The people taking a left hand turn at the Quick Chek will not be able to get out especially if there is stacking in the parking lot and they will not be able to move and blocking other people exiting parking spaces. How can we resolve that issue? What the county has come up with for the site is probably the best solution, but my concern is the Quick Chek lot. Mr. Simoff stated: What I would suggest is to make this a 2 way stop. Then when you are pulling out at the back of the property, you stop before you get to the driveway. Mr. Ricciardo stated: My concern with what the County has suggested is the left hand turn lane out. There is only one. The majority of volume in peak hours is not going to permit those cars to have reasonable time to make that left hand turn. Mr. Simoff stated: I disagree. Moving it toward Sparta further to the East you are lessening

the area of cueing and have the ability to get out. Mr. Ricciardo stated: I would rather see one driveway one way all out and the other driveway fall in then having one turning left on Newton-Sparta Road headed toward Newton. Mr. Soloway questioned: Was that alternative discussed with the County since it is on-site not off-site? Mr. Simoff stated: No. Today there is only one lane in each exit. There is no provision for a left turn. We widened the driveway for a dedicated lane. Chairwoman McCabe questioned: Does anyone else have any thoughts or comments about that situation? The Board responded that they have the same concerns about the situation. Mr. Simoff stated: We have existing speed bumps on site and we are willing to work with the Police Department in placing more. Ms. Fowler stated: It's not the traffic coming from Newton, it's coming from Sparta too. Mr. Elvidge stated: The County is not as familiar as the residents of the Town of Newton the way it exists currently. What is going to happen when there is commercial activity in these driveways? I agree with Mr. Ricciardo the lower exit should be all out and the Northern exit should be all in. The County should have discussions with the Town of Newton before they sign off on this. The studies do not tell you what is happening here. Discussion ensued.

Chairwoman McCabe questioned: What is the buffer on your parking? Mr. Simoff stated: We are even. 274. Chairwoman McCabe questioned: Can you eliminate the 6 parking spaces on the eastern side of the Quick Chek where Motor Vehicle used to be? Mr. Simoff stated: I don't know how we are going to eliminate them. Chairwoman McCabe stated: I don't know how people are going to back out of those. Mr. Soloway stated: What the Board members are suggesting is that if you can come up with a safe and efficient circulation plan, but the price for doing it is being short a few parking spaces, that may be okay.

Kevin Kelly, from the firm of Kelly, Wurst and Lambert. I am co-council with Mr. Fiorello on this application. I have been directly involved with the County Planning Board application and the issues you have been discussing. I know that creates a problem with a conflict of Mr. Elvidge. Mr. Elvidge is a client of our law firm. Mr. Soloway stated: I do see a potential for a conflict. Mr. Kelly stated: I intend to speak as an

attorney that is directly involved with the issues we are talking about. This is my client and I need to be involved in the case. He apologized for the inconvenience. Mr.

Ricciardo questioned: Mr. Kelly do you see my relationship with your firm presenting a conflict since we do not have any ongoing litigation?

Mr. Elvidge recused himself.

Mr. Ricciardo recused himself.

Mr. Kelly stated: In May of 2008 I filed the application with the County Planning Board. A letter dated June 9, 2008 (Exhibit A-2) to Mr. Simoff from the County Senior Planner, Berry Fisher. You have been talking about this letter and it is not in front of you. This is the document that the County determined this alignment was to go. The Town was not copied on the document. The County changed it's mind as a result of meetings they had and didn't involve us or the Town of Newton. In terms of this issue, the only jurisdiction over this decision is with the County Planning Board. If you disagree, speak to the County Planning Board. The jurisdiction to make this call is not here tonight. On July 23, 2008 we had another exhibit to discuss tonight. Exhibit A-4, letter to Mr. Martorana and discussion about the word disapprove. It is approval if you do the things attached in letter. We told them to send to our engineer. Mr. Simoff went over these. We sent to the traffic engineer. They are going to make relatively routine comments about surveys and extra stuff in the plans and being submitted as soon as they are ready. Mr. Soloway stated: I agree with Mr. Kelly that the July 23, 2008 disapproval of the County is not a final disapproval of merits. It is a technical disapproval. If the changes are made, they will approve it but are not willing to call it an approval. I would not look at that letter in the context of the County is disapproving the plan. Mr. Kelly stated: The County Planning Board has told us what to do. With issue of traffic, the permitted uses and the site plan in New Jersey. Traffic is not a reason for denial and has not been since Dunkin Donuts case was decided a long time ago. Mr. Soloway stated: I would agree with Mr. Kelly in that traffic issues in terms of what happens off-site are not a basis for a Board to deny an application. I would distinguish off-site traffic from on-site traffic circulation issues, however, I think are a subject for discussion and consideration for the Board when

deliberating over a site plan. What is happening in a County road is not the Board's issue. Mr. Kelly stated: The issue that the traffic is lousy in places is not our concern here. What we are concerned with is inside the site and the comments made about inside the site.

Mr. Simoff stated: The Board's conflict being between the eastern exit in front of the Quick Chek conflicting with the exit from the Newton-Sparta Road is the major issue. The County has determined that these are the driveway configurations. Mr. Soloway stated: Was there any discussion with the County about one way in and one way out? Mr. Simoff stated: No. Chairwoman McCabe stated: So we don't know that the County had another option that may have been better than what you have. Mr. Simoff stated: They allow 2 means of ingress and egress. That is the standard. The problem is if you allow one means of egress you are forcing all the traffic to this location. There are factors to be determined, circulation, emergency access and safety of operation. So I would not suggest that we only have one mean of egress. Now we have 3 lanes exiting the site. If we take it down to 2 lanes of egress, where we are making the situation worse. That is what my letter to the County discussed. We wanted to have multiple ways of going left and the County said no. By making this one way in the middle driveway, you are not going to get 3 lanes out. The conflict point is where the Quick Chek parking meets the eastern driveway. Let's talk about how we can eliminate that. I think the solution to eliminate that is what your engineer suggested forcing the traffic away from that so that traffic if traffic is one way westbound, you are not allowing any of the traffic to come to this conflict zone. The consequences are if you heading to Sparta you can come and make a right at the middle driveway. If you want to head back to Newton, you have to circulation the rear of the building. The same concept is also applicable if you are coming from Newton and making a right turn in the middle driveway. You cannot make a quick left to the Quick Chek parking area. You have to go around the back of the building, you have to continue east to make a right turn. With proper signage and proper channelization these solutions address all your concerns. We are going to lose a couple of parking spaces if we angle them. We have about 8 spaces surplus. We will lose 2 on each side. I would suggest taking out on the west side of the building whatever number

to make the count. Probably 2-3 spaces being removed. The remainder of spaces would be delineated as employee spaces. Mr. Soloway questioned: Mr. Simoff would you prepare some kind of exhibit or circulation plan so the Board has something to look at? If there is going to be a change in the number of parking spaces we should know that too. Mr. Simoff stated: Yes. Mr. Kelly stated: We can only come up with the best alternative we can do. We can show you a revision. We would like to have some kind of indication that this is what you are interested in doing. Chairwoman McCabe stated: We have a lot more circulation to discuss before we reach a comfort level. Mr. Kelly stated: Then I guess we are not ready to do that.

Chairwoman McCabe stated: The 10 spaces you would like to remove in front of the office building. What kind of arrangements can be made on the site for pedestrian safety if you are going to take away the parking in front of the building. Mr. Simoff stated: We have an awning and sidewalk in front of the building. Chairwoman McCabe questioned: Where are these people going to park? Mr. Simoff stated: In the remainder of the parking lot. We have calculations that include the existing building. Chairwoman McCabe questioned: The 8 spaces on the side, proposed lot 5, are those dedicated spaces at all? Mr. Simoff stated: There are no dedicated spaces. Chairwoman McCabe questioned: So if they don't park in those 8 spaces, they go wherever? Mr. Simoff stated: They can park behind or in front of the Quick Chek of. Chairwoman McCabe questioned: The people that park in the 8 spaces are employees or customers in the current usage? Mr. Kelly stated: I would like to have Mr. Martorana as the property owner to step up and to participate in answering these questions. Mr. Martorana stated: Currently there are 6 employees there daily. Chairwoman McCabe stated: We have to assume 6 cars are going to be there all day. Since you are taking their spaces away, what are you going to design on this site to ensure their safety as they move between the buildings because they are going to walking across a very busy ingress and egress location? Mr. Martorana stated: Parking in front of the Quick Chek would not be a solution. They would park to the side of the property because there is a sidewalk that runs across the building. There is a canopy with a 4 foot sidewalk to the side of the building with retail. There is also an entrance to the building there. Ms. Fowler

questioned: Are you going to make them their dedicated spots? Mr. Martorana stated: I was not going to make them dedicated spots. Ms. Fowler stated: It would not be fair to the patrons that come to Quick Chek to have to park behind to go in the Quick Chek when someone is there all day. Mr. Martorana stated: That is a different building. Mr. Wentink questioned: Why can't we take the 8 spaces that are in front of the low one story mason building and add a few more? Now the people would be removed from in front of the masonry building. They wouldn't have to walk across the driveway. Chairwoman McCabe stated: We are concerned about keeping those people next to the building so they are not walking through the traffic. Mr. Simoff stated: There is no problem to put parking there.

Mr. Martorana stated: We put speed bumps in the lot already. Mr. Kelly questioned: How many speed bumps did you install? Mr. Martorana stated: We installed 4. Mr. Kelly questioned: When did you do that? Mr. Martorana stated: When we repaved the whole parking lot June 2007. Mr. Kelly questioned: What did that do? Mr. Martorana stated: That slowed up a lot of the kids. That's the reason I did that. I also filed a drive-thru with the police department to check for vagrants or anything happening. I believe it has slowed it down.

Chairwoman McCabe stated: Let's move to the circulation in the back. The parking area behind Quick Chek and the proposed parking in that area. In the past we have discussed service vehicles and delivery trucks coming back there. Could you go through the circulation the delivery trucks would take to the back of the building? Mr. Simoff stated: We anticipate the delivery trucks coming in and making a right turn, going south and make a right and then back in where the corner of the building near the dumpsters. The currently do that now. There is a notation for loading and unloading. Chairwoman McCabe questioned: If they do enter the site at the easterly entrance what would the pattern be? Mr. Simoff stated: If the came on the easterly side, they would make a left and come around where the Laundromat is, make a right to go around the building and back in. We put templates on here. Where it was previously curved we made striped so a truck could get through there. That is striping. Mr. Wentink stated: A lot of the

deliveries are in non-major hours. The smaller store deliveries are UPS. They are in and out in five minutes. Mr. Simoff stated: They schedule deliveries when they are not as busy because the employees have to help. They do it in off hours. Mr. Kelly questioned: Mr. Martorana is that something you can control? Mr. Martorana stated: I can make suggestions and referrals in a new lease, but they try to zone their deliveries in the off-hours. Chairwoman McCabe questioned: What is the largest truck you have seen? Mr. Martorana stated: Tractor trailers. They don't get tractor trailers everyday. You get more deliveries with the smaller trucks. Chairwoman McCabe stated: I am very concerned about a 53 foot truck in that area. Mr. Martorana stated: I have never seen a 53 foot truck on this site.

Chairwoman McCabe questioned: You have a current fenced in area where the future parking is. Will there be traffic flowing through that area? Mr. Simoff stated: Right now there is no use for it. We did not need the extra parking spaces. Chairwoman McCabe questioned: You are eliminating some of that area for traffic flow? Mr. Simoff stated: The fence will be eliminated and the driveway and the island will be built and paved. Mr. Fiorello stated: The fence will not be eliminated, it will be reconfigured. Mr. Simoff stated: It will be reconfigured to the west side of this driveway. Mr. Fiorello questioned: If we get into a crunch on parking spaces, can we take advantage of that future parking area? Mr. Martorana stated: Yes, a portion of it. I would like to use it for snow pile up. I am in negotiations with a lease for the warehouse right now.

Chairwoman McCabe questioned: The configuration of the travel way seems maize like rather than a straight line into the site. You have it curving downward. Was there a reason for designing the parking area that way? Mr. Simoff stated: The standard parking area is to have the front of the building and the parking stems perpendicular to the building. You have the street, then you have this going through the middle of the parking lot. The intent was when you pull into the driveway you are in front of the building. Mr. Simoff stated: Perhaps we can take some of the island out and make it straighter. We want to direct the traffic in front of the building. Mr. Fiorello stated: Sometimes when you make it straight, it create speedways.

Mr. Simoff stated: The radius on the west side of the driveway. Chairwoman McCabe stated: It seems confusing on how to get out. Mr. Simoff stated: We are going to come up with a signing program for circulation.

Mr. White stated: We were told there was going to be snow removal in that spot. Where will snow go if you use that for parking? Mr. Martorana stated: I would like to have a large portion of that space for snow removal. When that is full, we will have to take the snow off premises. Mr. Kelly stated: If we have room on the site, that would be great. Mr. Martorana stated: There is a large area. It is about 70 feet wide. Chairwoman McCabe stated: That should be dedicated for snow removal. You have a lease for the warehouse. Where are they going to park? Where are you going to allow access for 2 loading docks. Something should be dedicated for both uses. Mr. Martorana agreed. Mr. Simoff stated: We will have to adjust the landscaping. Mr. Martorana stated: The back loading dock is 6 foot high and is not used. Chairwoman McCabe stated: I would also like to see a dedicated area for snow removal that allows access to that warehouse.

Mr. White questioned: Handicap parking? Mr. Simoff stated: It meets the code. The new building has handicap parking on the north side and the other building has parking adjacent to the south side of the lot. There is no handicap parking for the Quick Chek. We will have to adjust that. Mr. White questioned: Is there going to be some added in the front of the building? Mr. Simoff stated: Once we change the layout we have to add parking. Chairwoman McCabe stated: You will have to add parking from the building you are taking it away from. Mr. Simoff stated: Yes.

Chairwoman McCabe stated: Since we don't know what the uses will be, you will have to come back once you determine what the use will be to make sure parking and circulation is in compliance with that specific building. Mr. Simoff stated: Those are permitted uses and is an assumption that has been made. Mr. Soloway stated: No, under the ordinance the Board has the right to require a site plan review when a new use comes in. Under the circumstances where it is generic it is reasonable to have that requirement.

Mr. Kelly stated: We will make revisions accordingly. We will submit and review at the next meeting.

Chairwoman McCabe questioned the Board if they would like to hold off on the traffic and circulation plan by Mr. Simoff. The Board responded: We would like to hold off. Mr. Kelly questioned: What do we do? Chairwoman McCabe stated: The Board has not addressed the circulation issues yet. Mr. Kelly questioned: When are you going to do that? Chairwoman McCabe stated: It is a difficult site. Mr. Soloway stated: Mr. Simoff did not testify until this evening. You can't expect the Board to spend 2 hours with Mr. Simoff and say okay to the aspect of circulation and parking and all the revisions. Mr. Kelly questioned: What do we do next? Chairwoman McCabe stated: Mr. Simoff can prepare a modified plan or he can wait until we have discussed all the circulation on the entire site.

#SP 08-07 Martorana Enterprises, Block 1201, Lots 5 & 5.03, 100 & 104 Sparta Avenue. Applicant is seeking approval for a major subdivision site plan to allow construction of 2 retail buildings. Carried to September 17, 2008.

Mr. Ricciardo made motion to Adjourn. Chairwoman McCabe second the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 10:38 pm. The next regular scheduled meeting will be held on September 17, 2008 at 7:00 pm in the council chambers of the Municipal Building.

Respectfully submitted,



**Katherine Citterbart
Planning Board Secretary**

Exhibits

Exhibit A-2 Letter dated June 9, 2008 to Mr. Simoff from the County Senior Planner,
Berry Fisher.