

**Planning Board Meeting
July 16, 2008**

Regular Meeting of July 16, 2008 at 7:30 pm

The regularly scheduled 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: Mr. Ricciardo, Ms. Kithcart, Mr. Vandyk, Ms. Fowler, Mr. Elvidge

Members Absent: Mr. White, Mr. Caffrey, Chairwoman McCabe

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

CONSIDERATION OF MINUTES:

Ms. Fowler made a motion to approve the minutes of the June 18, 2008 meeting. Mr. VanDyk second the motion.

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

ABSTAINED: Mr. Elvidge

HISTORIC RESOLUTIONS:

PB 02-08 Northern NJ Endoscopy Center, LLC, Block 708 Lots 8 & 9, 18 Church Street.

Ms. Kithcart made a motion to approve the minutes of the June 18, 2008 meeting. Mr. VanDyk second the motion.

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

RESOLUTIONS:

PB 02-08 Northern NJ Endoscopy Center, LLC, Block 708 Lots 8 & 9, 18 Church Street.

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

ABSTAINED: Mr. Elvidge

Mr. Soloway stated: Mr. Simmons made a few good suggestions for some minor changes which I did make. They were in condition # 5. I drafted it to have the Town Engineer sign off on the generator and noise ordinances. Mr. Simmons suggested since it was an interior matter in the building then it should be the construction official rather than the Town Engineer. In condition #7, it would now read that in the event that an additional water tap is required, the applicant should obtain approval from the water and sewer department and pay any required fees.

Ms. Kithcart made a motion to approve the minutes. Mrs. Fowler second the motion.

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

ABSTAINED: Mr. Elvidge

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.

Mr. Soloway stated: This was carried from the last meeting. Since that time, some revised plans and additional information were submitted by Mr. McCabe. Mr. Simmons has also issued us an updated report dated July 10, 2008 commenting on where we are and what his recommendations would be.

Mr. McCabe stated: I believe the members of the Board has the revised plans that our office has prepared. I would like to go through that plan and address the comments and questions that the Board had regarding parking. In response to the discussion at our last meeting about the parking on the site, the 3 spaces which is the needed amount for this building. We have prepared in the revised plan that shows the parking on the right hand side of the building next to the existing driveway. The lot has 8,680 square feet. The house plus a little area of sidewalk that is paved comes to 848 square feet. The existing driveway that you see in orange is 588 square feet. That represents a total of impervious coverage of 17%. Exhibit A-5 Colorized version of plan dated July 2, 2008. The Site Plan shows the 3 parking spaces colored in orange as being 903 square feet. If you take all the impervious coverage that we have now that comes to 2,339 square feet or 27% of the total lot. The two dark blue lines are the survey and wetlands line for the adjacent subdivision that was approved in March of 2006. Exhibit A-6, Modified Site Plan to have the parking in the rear and the front. What you see on this is 4 parking spaces in the rear. Each one measures 9 feet across and 20 feet in length and 25 feet in backspace to the sidewalk. There is a 15 foot radius turn on it. With the new parking in back, in orange, you are looking at 1,947 square feet or 22% coverage of the lot.

Mr. McCabe was going to make a presentation to the Board using a projector. (Exhibit 7, a disk of Mr. Nause's house with a projector.) There were technical difficulties with the projector. Mr. Soloway requested a copy of the disk.

Mr. McCabe stated: The red line showing the property line on the right side is taken from a point on the fence that is facing out toward the road along the property line coming up to the iron pin on the corner. The applicant drew a line in red on the ground to show exactly where the fence would end up being placed. The idea is to show the cars can back up within that area out of the parking spaces on the side of the building, with all 3 parking spaces filled so that they can get in and out. Discussion ensued.

Mr. Simmons stated: July 10, 2008 updated report. Item 2C, we figure 4 parking spaces are provided, they are proposing 3. There is a variance needed for 1 parking space.

Item D, they are proposing 3 parking spaces that will be parallel to Trinity Street. There is a note that calls for dense rated aggregate to be constructed and either the surface treatment of the driveway to be either 2 inches of asphalt or brick concrete pavers. The front lawn would be eliminated and would be close to the sidewalk. Mr. McCabe stated: In terms of the materials to be used, it depends on what the cost effective materials are going to be. The cost of asphalt is going up. We don't know if the brick pavers would be more economical. Mr. Simmons stated: It may end up with the brick pavers due to weather conditions. The applicant should be aware of the additional maintenance.

Item F, with regard to the stockade fence that encroach on to the adjacent properties, the applicant has put notes on the plans that the stockade fences will either be relocated or easements will be obtained from the neighbors if possible to leave the fences where they are. Mr. McCabe stated: The fence on the right hand side with the greatest amount of drift has been removed. There are only a few posts left to take out. They will be reinstalling it. Mr. Soloway stated: The fence on southerly side of property. They are relocating the fence? Mr. McCabe stated: Yes.

Mr. Simmons went on with his report. Item H, where the red line was in the video, that is going to be a stockade fence used as a physical barrier, if approved by the Board. The minimum requirement for parking spaces is 180 square feet. They had 180 square feet and a little more for each parking space. The isle width is 24 feet, they don't have that. They may have back up a few times to get out. If a vehicle is coming into the parking lot, and park in the space close to the steps near the porch, there is room to make that turn.

Item 4, Utilities. I didn't see on the revised plans. Mr. McCabe stated: The utilities are not close to the driveway, water and sewer. It is in the front left corner of the building where the entranceway is. One comes out the side in the front and then makes an elbow. On the northerly side of the house on the street. Mr. Simmons stated: I would just like it on the plans.

Mr. Simmons continued with his report. Item 5, Lighting. The applicant did show some existing lighting and proposed lighting. I am requesting that the plan show the wattage and hours of lighting. I also request that there be a light test in the field to verify the foot candles. Check for adequate illumination for the patients to walk from the parking lot to the existing building.

Item 7, Signage. The sign is not going to be illuminated. Item 8, my recommendation for the DGA is 6, the plan only states 5.

Mr. Elvidge questioned: How did the parking discussion in the rear arise? Mr. Ricciardo stated: The requirement by ordinance for parking is 4 spaces. The initial plan did not show the 3 parking spaces on the side of the building. It showed stack parking and they were going to back out onto Trinity Street, which I felt was dangerous. The doctor said it was just him and 2 patients at a time. He only had one vehicle, which only required 3 parking spaces. I am in the opinion that it still needs 4 parking spaces and that it belongs in the rear of the building with the proper turn backing radius. This doesn't make it according to Mr. Simmons report. Mr. Elvidge questioned: What is the ordinance that is driving the 4 spaces, employees? Mr. Ricciardo stated: Doctor plus so many patients. Mr. Simmons read requirements for Item 2C, 20-8.2 Medical Office. Three spaces were proposed and therefore will require a variance. Mr. Elvidge questioned: Is the applicant opposed to putting 4 spaces in the back? Mr. Ricciardo stated: You have the room in the back to put 4 parking spaces. Mr. Elvidge stated: It is becoming a business dwelling. I'm not an advocate of the parking being on the front lawn and in time to come you may wish you had the extra parking space with one physician and 2 patients you are going to get snagged up with another person. The turning radius is tight and I would prefer to see it in the back with the 4 spaces. Mr. McCabe stated: There is public parking on both sides of Trinity Street. The distance between the northerly property line where it intersects the curb and the drop curb is 47 feet. He is permitted to have 2 cars parked on the street associated with his building. That is public parking. That is something that we in Newton have taken into account when we are talking about businesses coming in. So to discount the public parking in front of the persons property, I think is not appropriate. Just over 2 years ago, March 2006, this Board approved a subdivision of a land surrounding this to the East and South and created two new lots for 2 duplex housing units. Those houses are set back 25 feet from the curb line. That is enough to put parking in front of each one of those buildings just leaving enough room for pedestrians to walk. They also have no provision for turning around on that site. One of them back out into Kelsey Avenue intersection. Discussion ensued.

Mr. Soloway stated: Each application stands on its own. Mr. VanDyk stated: We have to take into consideration that the applicant lives there.

Mr. McCabe stated: We would like to propose the fence that is there now be pushed back. We will create 2 parking spaces here parallel to the south side property line. Parking space number 3 will be eliminated. That will be the "K" turn. The other 2 can be brought in further. They have the greatest distance for turning in and out. Mr. Simmons stated: Based on the number 3 space not being eliminated, it provides an area for the vehicle that pulled straight in to back up and do a "K" turn on site. The only disadvantage to that is where the applicant would park he can be blocked in. The applicant is proposing to have his vehicle there all day. Mr. Ricciardo questioned: How far back are you going to move the spaces? Mr. McCabe stated: 6 feet. Mr. Soloway

stated: It would be helpful if we could see it. Mr. Ricciardo questioned: What's to stop people from parking in the third space? Mr. McCabe stated: A sign saying "no parking." We have spot for the doctor. We have 2 other spots for the patients. If someone does arrive early, we have the other spot there now. The spots can be numbered and labeled for patient parking.

Mr. Soloway questioned: Where are the 3rd and 4th spaces? Mr. McCabe stated: Space number 1 already existing, we put that back 6 feet from the front line along the westerly side which is front on Trinity Street. The third parking space is going to be the point of turn around, an area for a "K" turn. The other 2 spots required will necessitate the existing wood stockade fence that runs parallel with Trinity Street from the southeasterly corner of the building over the property line and pushed back. That will allow for a parking area for the applicant next to the building and for the third patient parking which will be parallel with the southerly property line. Mr. McCabe is submitting Exhibit A-5 with the mark up of the parking spaces. Discussion ensued.

Mr. Simmons stated: The distance from parking to the building would have to be subject for fire subcode review.

Mr. Ricciardo questioned: With the parking in the rear you have the lawn area in front. The driveway will be made out of pavers or bituminous materials.

Mr. McCabe stated: The applicant does live here. He is running a professional office downstairs, which is a permitted conditional use. All the parking in the back is a detriment to living in the house and the adjacent property. The hours are 10 am to 6 pm with no weekends. We are suggesting that the applicant place a substantial ground level structure on the property which is not conducive to residential use. Discussion ensued.

Mr. Soloway asked Mr. Simmons: If you can determine it, does the revised/compromised plan require any variances? Mr. Simmons stated: I would have to check the code. It may require a variance for not having a parking space with a turn around for the doctor's spot. Mr. Ricciardo questioned: If you extended the parking to the rear, would you extend the fence and how would you light that area? Mr. McCabe stated: The fence would have to create a separation from the parking in the rear. We would have to work out the lighting with Mr. Simmons. I would have to be a full mounted light with a shield at the end of the parking area to provide illumination. Mr. Soloway stated: I'm not comfortable having the Board vote on a plan that may require a variance. Mr. Soloway suggested the applicant come back to give us an Exhibit telling exactly what is proposed and figure out what variance relief is required before vote. Mr. Ricciardo stated: Then the applicant should include all the items Mr. Simmons wants put on the drawings. Mr. McCabe stated: Understood.

Mr. Ricciardo opened the floor to the public.

Mr. Earl Nause, owner of building. I did have a concern with the people coming to see Scott having to walk from the back of the house to the front of the house. It seems like something people are not going to do. Thank you.

With no other public to speak, Mr. Ricciardo closed the public portion of the meeting.

Mr. Soloway stated: Mr. Elvidge as of 7/16/08 would not be eligible to vote on this application because he did not listen to the transcript. However, he does have a right to comment on the application as he did. If he does listen to the transcript and signs a certification, he would be eligible to vote. Mr. Soloway suggested to the applicant to bring a picture to the Board to show them the beautiful back yard. He also stated that the applicant should submit a revised plan at least 10 days before the meeting date. He also suggested the applicant talk to Mr. Simmons to see what else he will need.

Carried to August 13, 2008 at 7:00 pm with no further notice.

#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 Special Meeting of August 13, 2008 at 7:00 pm. The application was deemed complete.

Representing the applicant was Mr. Anthony Fiorello, Esq., sworn previously.

Mr. Wentink replaced Mr. Simmons.

Mr. Fiorello stated: We are proposing to amend our subdivision application. There were 2 lots, Lot 5 and Lot 3. We had endeavored to straighten the lot lines between those 2 lots instead of the lightening bolt configuration. Based upon discussion with the applicant, there is no reason or need to have 2 lots. He would rather create 1 lot instead of 2 and make it Lot 5 and eliminate Lot 3. Mr. Soloway questioned Mr. Wentink: Is that going to require any amended report from your prospective. Mr. Wentink stated: No. Mr. Soloway stated: For our files write the Board a letter stating lot line adjustments.

DISCUSSION

Ordinance 2008-13

Mr. Soloway stated: The Board needs to make a determination if it is inconsistent with the Master Plan. If the Board does nothing, the Town Council cannot act for 35 days.

Mrs. Millikin stated: Under the COAH Element you establish development fees that are paid. We are updating our development fee. We have it in place, however, we only charge 1% assessed value for a commercial structure and .5% of that for a home. We are proposing to increase to be with COAH standards. To keep it consistent with the Master Plan, it will keep our housing element consistent with the regulations coming forward.

This would bring the COAH fee into compliance and allow us to get 1.5% value for residential and 3% for the commercial. Our planner is also in favor of this amendment.

Mr. Soloway stated: The determination if anyone wants to move it is to find that the proposed ordinance is not inconsistent with the Master Plan and to direct Ms. Citterbart to report that finding.

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

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

Mr. Ricciardo made motion to Adjourn. Mr. VanDyk second the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 9:05 pm. The next regular scheduled meeting will be held on August 13, 2008 at 7:00 pm in the council chambers of the Municipal Building.

Respectfully submitted,

A handwritten signature in cursive script that reads "Katherine Citterbart". The signature is written in black ink and is positioned above the printed name and title.

**Katherine Citterbart
Planning Board Secretary**

Exhibits

Exhibit A-5 Colorized version of Site Plan dated July 2, 2008.

Exhibit A-6 Modified Site Plan to have the parking in the rear and the front.

Exhibit A-7 Copy of disk