

**Planning Board Meeting  
May 21, 2008**

**Regular Meeting of May 21, 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 a quorum.

**Members Present:** Ms. Unhoch, Mr. Ricciardo, Ms Kithcart, Mr. Caffrey, Mr. Vandyk, Chairwoman McCabe.

**Members Absent:** Ms. Fowler, Mr. White, Mr. LeFrois

**ALSO PRESENT:** Mr. David Soloway, Esq., of Vogel, Chait, Collins and Schneider. Mr. Ross Sheasley of A. Nelessen and Associates, swore in January 2007.

**CONSIDERATION OF MINUTES:**

Mr. Ricciardo made a motion to approve the minutes of the April 16, 2008 meeting. Ms. Unhoch second the motion.

**AYE:** Ms. Unhoch, Mr. Ricciardo, Ms Kithcart, Mr. Caffrey, Mr. Vandyk, Chairwoman McCabe.

**INFORMAL PRESENTATION:**

John Nagel of the Unitarian Universalist Fellowship of Sussex County, Block 1002, Lot 15 is requesting an addition to its building at One West Nelson Street. Michael Bengis, licensed architect.

Mr. Nagel stated: Wants to put addition to existing building 30 x 60 foot 2-story. There is a 12 x 40 foot grass area on right side. The application is to extend the one-story addition by 12 x 40 feet. The addition would have a one-story sloped roof and would correspond to the appearance of the existing addition. Mr. Bengis has drawn up a site plan. We are looking to enlarge the footprint of our building by 480 square feet.

Mr. Soloway stated: You would need a parking variance.

Mr. Ricciardo stated his concern for fire suppression needed in class rooms. Mr. Bengis stated the room must have a door that leads directly outside. When we get to that point, the legality will be on the drawings. Mr. Soloway stated a front yard variance is needed. Mr. Simmons stated there are some existing non-conforming situations and Mr. Soloway was going to recommend a Notice for some variances if they come in with a plan. Mr. Soloway stated they should Notice for a parking variance as parking probably does not comply and the set back discussed. Mr. Simmons stated there should be a waiver request. Mr. Soloway stated yes for non-conforming condition. Mr. Simmons stated it's better to over notice than under notice. Mr. Ricciardo questioned the width of the parking stalls. Mrs. Millikin stated the ordinance is 9x20 for parking spaces. Mr. Ricciardo stated the

wall between the boiler room and the new classroom should be a fire proof wall. Mr. Ricciardo stated the concept if fine. Mr. Nagel questioned what happens now. Mr. Soloway stated this is an informal to let us know what you are thinking of doing. You would now be required to apply for site plan approval with variances. You would submit an application and need a more formal plan. When it is submitted with the fees and found complete, you will be scheduled to go before the Board for a formal hearing. You will have to Notice, get a list of owners 200 feet of boundaries, list of utilities will get Noticed, Notice the Sussex County Planning Board, put legal Notice in newspaper all 10 days before hearing.

**HISTORIC RESOLUTIONS:** There were none.

**RESOLUTIONS:**

**PB 05-08 Project Self-Sufficiency – Block 303, Lot 21.01, 127 Mill Street. Final Site Plan Approval.**

# MNPFSV7-2007 Mr. Ricciardo made a motion to approve. Ms. Kithcart second the motion. Roll call vote:

Aye: Ms. Unhoch, Mr. Ricciardo, Ms Kithcart, Mr. Caffrey, Mr. Vandyk.

**OLD BUSINESS**

**#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 June 18, 2008 with no further notice.**

**NEW BUSINESS**

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

Mark Walker, Engineer of the firm of Dykstra Walker, 21 Bowling Green Parkway, Lake Hopatcong, NJ, sworn.

Ben Horten, Horten Architecture and Design, 312 Route 10, Randolph, NJ, sworn.  
William Drew, Professional Planner, 320 Emmons Road, Flanders, NJ, sworn.

Dr. Sam Kahlam, physician, lives at 6 Nuthedge Court, Hackettstown, NJ.

Anand Dash, Esq. from the firm Dolan & Dolan, represents Swift Real Estate Solutions, John McChesney.

Raymond Zierak from the firm Garafalo, Zierak and O'Neill, PA represented applicant.

Chairwoman McCabe stated that Historic Commission approval is required. Mr. Soloway stated the condition would be if the Board approves it and the Historic Commission approves it fine, but if the Historic Commission denies they would have to come back. If the Historic Commission makes suggestions, they would have to come back the applicant agrees to incorporate them. If there are conditions the applicant does not want to do they would come back.

Mr. Zierak stated: The Northern NJ Endoscopy Center is planning to renovate the first floor. Dr. Sam Kahlam is a physician and he is the one opening the medical offices and work with endoscopy center.

Mr. Dash stated: There is an issue we have spoken about previous with respect to the parking spaces. Presently a number of parking spaces are being shared. In order to present the interest of the applicant and my client an agreement was attempted prior to this hearing. That agreement was not able to be completed prior to tonight. As per our conversations later this afternoon we thought that if the Board was to prove the variance with respect to the parking, would be requesting that the Board make that variance conditional on an agreement between the parties. We would request a time period of 60 days. Mr. Soloway stated: Ms. Citterbart, Board Secretary has heard from the client on multiple occasions and I have heard from you as well regarding the situation. This application specifically, the legal notice specifically tonight, is for a variance to allow a total of 30 parking spaces. My understanding before this evening is that your client is taking the position that the applicant did not have the right to 30 parking spaces. If that is the case, the applicant can see an approval with less, but if the applicant is seeking approval with less than 30 parking spaces then I have a question about your Notice. Mr. Zierak stated: The only issue between us was regarding the use of the two handicap parking spaces which were located on the lot that Swift Real Estate Solutions owns. Mr. Dash stated: Of those 30 spaces, 5 of those spaces are owned by my client so there is not a clear delineation as to which spaces may be used. That is something we hope we can work out. Mr. Soloway stated: If he can't get 30 spaces, then he has a Notice issue on his Parking Variance. That won't preclude us from proceeding tonight, but it will preclude us from concluding tonight. Discussion ensued.

Mr. Soloway questioned: Assuming you successfully negotiate an agreement, will you have the right to use 30 parking spaces at one time? Mr. Zierak stated: Yes. I spoke with Eileen McCarthy-Burn this afternoon and I thought we came to an agreement. Mr. Soloway stated: They don't have the agreement. When you say they have x amount of parking spaces you have to have the ability to use them all at one time. I wanted to make sure that's what you are proposing. Mr. Zierak stated: We have a lease agreement for 30 parking spaces. Mrs. Unhoch questioned: Is that in addition to the 32 spaces that are provided? Mr. Zierak stated: We are providing 30. We have amended our application and what we are proposing to do is give Mr. McChesney 2 of these and use 2 of his handicap parking spaces. That will give us 28 plus 2 is 30. Mr. Soloway questioned: Is that correct Mr. Dash because that's not what you indicated to me. Mr. Dash stated: Of those 30 spaces, 5 of those are not counted. Mr. Zierak stated: The only issue I was aware is the 2 handicap spaces. Mr. Zierak questioned: Where are the 5 spaces that your

client claims? Mr. Dash stated: I don't think it's been made clear. Mr. Soloway state: I don't think the Board can resolve those. I suggest that the Board accept the fact that applicant is seeking a variance to allow a total of 30 spaces. The 30 spaces would all have to be available at one time. If Mr. Dash and his client take the position that even if this agreement is consummated, they won't have those 30 spaces then I would suggest that after the applicant puts on the case. Your Notice will then be defective. Mr. Zierak stated: I don't believe it is. Let's listen to the testimony. By the way, my client advised we have a lease with 30 spaces. Mr. Soloway questioned: With exclusive use of them? Mr. Zierak stated: Yes. Chairwoman McCabe questioned: Are those delineated in the lease or there are 30 spaces in the lot? Mr. Zierak stated: Mr. Dash stated: There are more spaces in that lot. The museum is there some spaces for the museum, but excluding that we have 30 spaces for us. Chairwoman McCabe questioned: Those are specifically delineated? Mr. Dash stated: Yes. They are not numbered but we counted them and they are there. The 5 parking spaces that are in question are behind the building on the next to Mr. McChesney's building. They are his parking spots. They have nothing to do with the county. Chairwoman McCabe questioned: They are outside the 30 spaces that are part of your application? Mr. Dash stated: Yes. Out of those 5 spots there are 2 handicap. Mr. Zierak stated: Those are the ones we negotiated to use in exchange for 2 of the other 30 spaces. Whether we reach an agreement or not, our position would be that we have 30 spaces.

Mr. Soloway stated: I think you are going to have to show that. I suggest that the Board see that lease because the question has been raised. If they are not exclusive to your client, that does not mean your client cannot get an approval, it does mean that the Notice to allow a Variance for 30 would not be the proper Notice to get relief to get less parking spaces. Mr. Ricciardo stated: Before you negotiate a transfer of handicap parking spaces from the front of the building to the rear of the building, this Board should approve that prior to your negotiating. Mr. Zierak stated: There is no parking available on the site. All the parking that is being provided is being proposed is located off the site. Ms. Kithcart stated: I think moving handicap spots isn't something that you can do. It's got to be by ordinance of the Town Council. I believe all handicap parking spaces are done by ordinance. Chairwoman McCabe stated: But that does not preclude the applicant from utilizing handicap or making an agreement with someone who has 2 spots to utilize them. Ms. Kithcart stated: They can utilize them, but they can't be moved or exchanged. Mr. Zierak stated: We are not moving. These are all existing spaces. What we are proposing to do is to agree with Mr. McChesney to allow our patients that happen to be handicapped to use those spaces in exchange for that agreement. We would allow his customers or employees on his behalf to utilize 2 of our spaces. We are not moving any spaces, just swapping.

Chairwoman McCabe stated: Maybe we could get Mr. Walker to describe for us the site and the spaces so that we can get some clarity.

Mr. Walker stated: I am a licensed professional engineer in the State of New Jersey. I have been licensed since 1992. My principal is with Dykstra Walker Design Group. I am a member of the National Society of Professional Engineers. I have a Masters Degree in

Environmental Engineering from NJIT and a Bachelors Degree in Civil Engineering from Northeastern University.

Mr. Zierak questioned: Mr. Walker did you prepare the site plan that I have marked Exhibit A-1? Mr. Walker stated: Yes I did.

Mr. Soloway questioned: Does anyone on the Board have any problem with accepting Mr. Walker's qualifications? Board answered: We accept.

Mr. Zierak questioned: Looking at Exhibit A-1, the building of question is Lots 8 and 9, Block 708. We have shown in a solid orange color. Directly to the East is Lot 9, Block 709 and directly to the East of that is Lot 8, Block 709 and continuing further to the East is Lots 6 & 7, Block 709. As you can see by the definition of the property lines, we have frontage on Church Street and Linwood Annex. The building is approximately the same size as the property line so there is no space for parking spaces on the lot. Keep in mind this is an existing building, zoned for office and was originally used as an office building. We will show with testimony. As a result of the change of use we are having on the first floor. We are going to have a reduction in the calculations of 18 parking spaces for the whole building. There's not much change in the application from the outside and the use that we will be establishing on the inside. On Church Street there are many meter parking spaces. The parking has always been Lots 6 & 7, Block 709. The applicant does have a contract to use this parking lot. Within Lots 6 & 7 there are 42 parking spaces within that area. 30 are designated for the use of the proposed building. Eight are for the use of the Historical Society building. Four directly to the South that have not been designated for a specific use. At the site, this is just one large parking lot. There are lot lines for Lot 8 and 9, Block 709 that extend over the paved areas and they do have designated parking spaces. Our crew went out to survey the parking spaces. We only surveyed 4 parking spaces that were located on Lot 9. There are an additional 5 parking spaces which 2 overlap onto Lot 8 and an additional spaces 3 parking spaces that are partially on Lot 6 & 7 and located in the Linwood Annex. Mr. Soloway questioned: These additional spaces over and above the 30 are public parking spaces that the applicant wouldn't have an exclusive right to utilize, but they are out there and available? Mr. Walker stated: That is correct, except for the spaces that are solely located on Lot 9 and Lot 8, Block 709. The proposal that we are trying to make is to gain 2 handicap parking spaces which would be directly adjacent to the main access of the surgical center. We would dedicate 2 parking spaces in Lots 6 & 7 for transferring the rights to use those areas for handicap parking spaces. They just want to get the 2 handicap parking spaces closer to where they are needed.

Mr. Ricciardo stated: My concern is that they are going to use the majority of the parking spaces for the first tenant in that building. That leaves the whole second floor with insufficient parking. The County not only had use of this lot, they had use of the parking structure across the street which they will not have access to.

Mr. Zierak questioned: Mr. Walker would you address the parking requirements for this site? Mr. Walker stated: There is two ways to calculate parking spaces for the kind of use. One way is one parking space per 100 square feet. The other way, to look at the

specific application being used and calculate the number of parking spaces based on the number of doctors and employees. He will have one doctor on the property which requires 4 parking spaces for each doctor and maximum he would have is 6 employees. He would have 6 parking spaces for the employees, 4 for the doctor. For this operation, he would need 10 total parking spaces. On the first floor there is a common area 1,057 square feet. The common area for utility rooms, to corridor, and to the elevator to access the 2<sup>nd</sup> and 3<sup>rd</sup> floor, and the stairwells. Those common areas because of your Ordinance talks about gross floor area reviews the calculation of the number of parking spaces. Out of 1,057 square feet we need another 5 parking spaces. For his use on the first floor we would need the 10 for his use, 5 for common area, totals 15 parking spaces for the first floor. If we take the same area of the first floor which is 6,573 square feet and we applied the office parking ratio, we would need 33 parking spaces. If you look at the first floor and you switch out 15 from 33 spaces, you would reduce the parking spaces to 18. In the application that was revised by Mr. Zierak would modify the parking requirement from 121 down to 99. Mr. Ricciardo stated: This is still a concern. You have just about ½ of the parking spaces that are required for the building in a very tight public area. Mr. Zierak stated: We do also have 21 parking spaces located on Church Street. Mr. Ricciardo stated: That's public parking. Mr. Zierak stated: It's not used during business hours. That parking gets used mostly when the church is open. Mr. Ricciardo stated: I would not consider the allowance of the public parking spaces in your calculations. Mr. Zierak stated: It is a pre-existing office building. What are we supposed to do? Ms. Unhoch questioned: Is the building be used now? Is it a vacant building? Mr. Zierak stated: There is 2500 square feet that is being used by the County. Chairwoman McCabe questioned: You have a second and a third floor? Mr. Zierak stated: Yes. Chairwoman McCabe questioned: Just the County utilizes a portion of that building right now? They will be leaving that space and then supposedly renovating and renting it out? Mr. Zierak stated: I don't know. The applicant will know more about that. Chairwoman McCabe questioned: If the most you need is 15 spaces for your floor, then why do you have a lease agreement that allows you 30? Mr. Zierak stated: My client owns the entire building. Chairwoman McCabe questioned: So you would eventually utilize your 15 and allow any other tenants who come to utilize the remainder? Mr. Zierak stated: The 5 common spaces are really not going to generate any extra parking spaces. It's a necessity to calculate it that way because of the ordinance. Mr. Soloway stated: Does your client understand that the Board grants the application he may be having tenants seeking site plan approval with no parking? Mr. Zierak stated: This is a pre-existing longstanding office building and if an office tenant moved in I don't know if there would be a requirement any type of site plan approval unless there were some exterior renovations or if there were a use that was not permitted in the C-1 professional business district. Mr. Ricciardo questioned: You are telling us we should consider the required spaces now for the whole building with the knowledge that you are going to occupy half of them. Chairwoman McCabe stated: I understand the constraints. We are dealing with what we have. Mr. Zierak stated: We are seeking to make good utilization of the building. Mr. Soloway questioned: Mr. Walker, you thought the ordinance needed 33 parking spaces for each floor of the building? Mr. Walker stated: Yes. Mr. Ricciardo questioned: How many procedures are done a day and how often are they turned over? Mr. Zierak stated: The endoscopy center would be in operation about

½ the day, from 7 am to 2 pm. The medical office would be open from 1:30-5:30. The uses of the medical offices will not overlap. The doctor will testify as to the number of procedures and the time involved. Mr. Walker in addition to the variance that we are seeking regarding the number of parking spaces and the size of parking space, are there any existing conditions variances that are also being sought? Mr. Walker stated: Yes, one on Church Street the building is 10.1 feet where the requirement is 25 feet. The other on the south easterly corner of the building the building is 4.8 feet from Linwood Avenue where 25 feet is required. Mr. Zierak stated: There's nothing that's being done in connection with the proposed renovation that would affect either of those conditions? Mr. Walker stated: No. Mr. Zierak questioned: The exterior renovations that are being proposed, one of them involves a reconfiguration of one of the entrances? Can you describe where that is and what type of renovations is being proposed? Mr. Walker stated: Yes. We have an additional doorway that is being added to the building. The door is being constructed slightly uphill from the existing entry. We had to put a small wall and a small guide rail. The detail is at the bottom right hand corner of the plans submitted. That allows the door to open to the outside and provides handicap accessibility into the building. The reason for the 2 doors is that one door provides direct access to the use on the first floor, the other door provides access to the hallway that leads to the elevator. Mr. Walker stated: Exhibit A-2 for discussion purposes. Describes doorways and shows entrances on Exhibit A-2. Mr. Zierak stated: We have another drawing which is an elevation of the doorway just below the sheet. Other than the changes discussed regarding the doorway, is there any other changes to the exterior? Mr. Walker stated: Not to the building. Mr. Zierak questioned: What about the site itself? Mr. Walker stated: We are adding a proposed generator pad. Mr. Horten is going to give testimony relative to the generator. Mr. Walker pointed to the Exhibit A-2 and showed where the generator was located. Mr. Walker stated: The generator pad is located on the Westerly side of the building. There are door to get in to the generator.

Chairwoman McCabe stated: Concerned about flat area and walkway that you are proposing to jet out from the building. I am concerned about vehicles traveling down. It's very narrow. Mr. Walker stated: We added a guide rail section that will direct the traffic to a 45 degree angle, maybe a 60 degree angle located in front of that area. The building next door, Lot 9, our doorway to the building is wider than the entry point where the building for Lot 9 approaches the annex.

Mr. Soloway questioned: The site plan indicates that Linwood Annex is the dedicated right of way? Mr. Walker stated: That is correct. Ms. Milliken questioned: Is any of it in the right of way? Mr. Walker stated: No. Mr. Soloway questioned: Do you know the width of the right of way? Mr. Walker stated: It scales 5 feet. I don't have the exact dimension. Chairwoman McCabe stated: It's 8.6 feet.

Mr. Zierak called Dr. Kahlam for testimony. Mr. Zierak stated: Please state your full name please? Dr. Kahlam stated: Dr. Sam Kahlam. Mr. Zierak questioned: Are you licensed in the State of New Jersey? Dr. Kahlam stated: Yes I am. Mr. Zierak questioned: Do you practice any specialty? Dr. Kahlam stated: Gastroenterologist. Mr. Zierak questioned: How long have you been practicing in that field? Dr. Kahlam stated:

18 years. Mr. Zierak questioned: You have offices here in Newton and in Hackettstown, New Jersey, correct? Dr. Kahlam stated: Correct. Mr. Zierak questioned: Are you the managing member of SAK Associates, the Limited Liability Company that owns this property? Dr. Kahlam stated: I am. Mr. Zierak questioned: Are you the managing member of the Northern New Jersey Endoscopy Center, LLC? Dr. Kahlam stated: I am. Mr. Zierak questioned: SAK Associates purchased this building from the County of Sussex? Dr. Kahlam stated: Yes. Mr. Zierak questioned: How long ago was that?

Dr. Kahlam stated: 18 months ago. Mr. Zierak questioned: This is a 3 story building? Dr. Kahlam stated: Correct. Mr. Zierak questioned: It was utilized prior to your purchase as an office building? Dr. Kahlam stated: Correct. Mr. Zierak questioned: When you purchased the building, did you also enter a lease agreement with the County of Sussex regarding the use of parking spaces for this building? Dr. Kahlam stated: Yes. Mr. Zierak questioned: Pursuant to that agreement, how many parking spaces are you authorized to utilize? Dr. Kahlam stated: 30. Mr. Zierak questioned: Where are those spaces located? Dr. Kahlam stated: Lot 6 & 7. Mr. Zierak questioned: We are talking about doing renovations on the first floor, correct? Dr. Kahlam stated: Correct. Mr. Zierak questioned: This building is on a different level if you approach from Church Street, you would approach the second floor of the building? If you approached it from the Linwood Annex sign that would be the first floor? There is a third floor above that? Dr. Kahlam stated: Yes. Mr. Zierak questioned: Are there any tenants occupying the building currently? Dr. Kahlam stated: A legal services on the second floor in the rear of the building. Mr. Zierak questioned: How much space do they occupy? Dr. Kahlam stated: 2500 square foot. Mr. Zierak questioned: What you propose to do is all on the first floor, correct? Dr. Kahlam stated: Correct. Mr. Zierak questioned: Is it your intention to utilize a portion of the first floor for medical offices? Dr. Kahlam stated: Yes. Mr. Zierak questioned: What about the balance of the first floor? Dr. Kahlam stated: That will be for the Endoscopy Center. Mr. Zierak questioned: I will refer to the Exhibit A-2. The medical office is 1700 square feet to the right. The Endoscopy Center will be located on the left and will occupy 3700 square feet. Dr. Kahlam stated: Yes. Mr. Zierak questioned: What are the hours of operation for the Endoscopy Center? Dr. Kahlam stated: We do procedures in the morning. The facility is open from 6:30 when the staff comes in and sets up, but we start seeing patients at 7:30 to 1:00 pm. One procedure takes about 30 minutes. That includes the procedure time and the turn around time for the room. You would have 2 procedures per hour. Patients will be in the waiting room, patients being prepped to go into the procedure room, and patients recovering.

Mr. Zierak questioned: Can you describe the progression when the patient comes in for a colonoscopy? What types of timeframes and what is done? Dr. Kahlam stated: Patients come in 30 minutes before procedure, prep for procedure, intravenous, change, go the bathroom. The nurse preps the patient and the patient is ready to go into the procedure room. The procedure takes 20 minutes. Then 15 turn around time. There are 2 procedures per hour. Mr. Soloway questioned: Are you putting the patients under anesthetic? Dr. Kahlam stated: Yes. Mr. Soloway questioned: How many patients are

there at a time? Dr. Kahlam stated: 5 patients. Mr. Zierak questioned: Do the patients have to have a driver with them? Dr. Kahlam stated: Yes, one person comes with them to drive. Mr. Zierak questioned: Is an anesthesiologist used for each procedure? Dr. Kahlam stated: Yes, in the community setting you need an anesthesiologist because that is the requirement. The anesthesiologist is just a doctor that is assisting; he does not have his own patients. Mr. Zierak questioned: What other staff would you anticipate employing at the Endoscopy Center? Dr. Kahlam stated: We need one receptionist to answer the phones, at least 2 nurses to prep patients, a technician who will be assisting, another technician watching the endoscopes. At least 5 other employees. Mr. Zierak questioned: Will more than one doctor be using the offices? Dr. Kahlam stated: One physician in the afternoon. We consult patients in the afternoon. Mr. Zierak questioned: What are the hours of the medical office in the afternoon? Dr. Kahlam stated: 1:00 pm to 4:30-5:00 pm. Mr. Zierak questioned: How many staff members employed with the medical office? Dr. Kahlam stated: 3 employees. 2 receptionist in front, 1 receptionist that schedules patients. Mr. Soloway stated: Including all the doctors there would be a maximum of 7 employees and staff on premises at one time? Dr. Kahlam stated: Yes, maximum 7.

Mr. Zierak questioned: We are asking for a variance for loading spaces. What type of supplies both offices will require and how they are delivered? Dr. Kahlam stated: Gas cylinders, linen, etc. They don't have to deliver while the center is open, they will after the center is closed. Mr. Zierak questioned: Is that delivery made by a small van or truck? Dr. Kahlam stated: Yes. Ms. Unhoch questioned: What about the waste? Dr. Kahlam stated: The waste will be at the end of the day. Mr. Soloway questioned: Do you have a medical waste pick up? Dr. Kahlam stated: Yes. Chairwoman McCabe questioned: How is it stored? Dr. Kahlam stated: Allocation on the plans to store waste and dirty linen. Mr. Ricciardo questioned: How many patients would have in the 5 hours of operation? Dr. Kahlam stated: 6-9.

Mr. Benjamin Horton, Licensed Architect in State of New Jersey. 18 years in practice. Office located at 312 Route 10, Randolph, New Jersey. Have you previously testified before a Land Use Board in the State of New Jersey? Mr. Horton stated: Yes. Mr. Zierak questioned: Have you been accepted by those Land Use Boards before when you have given testimony as an expert in the field of architecture? Mr. Horton stated: Yes. Mr. Zierak questioned: I would ask that the Board recognize Mr. Horton's qualifications and accept his testimony as an expert in the field of architecture? The Board accepted Mr. Horton's qualifications.

Mr. Zierak questioned: You did not prepare this plan? Mr. Horton stated: No, it was prepared by Yogish Mistry. Mr. Zierak questioned: You have work with Yogish Mistry on various projects. Mr. Horton stated: Yes. Mr. Zierak questioned: Before coming here tonight did you review the plan that Mr. Mistry had prepared? Mr. Horton stated: Yes. I reviewed the plans, walked through the project, and had discussions with them. Mr. Zierak questioned: So you are familiar with the site and the plans that are depicted as Exhibit A-1? Mr. Horton stated: Correct. Mr. Zierak questioned: Can you tell us what that plan depicts? Maybe you can go over to the Exhibit and explain what type of rooms

and to which use they would be put. Mr. Horton stated: Majority of the building to the left of center is the Endoscopy Center and to the right is the Medical Office. It's important to note when you consider the endoscopy clinic and the medical office they are all considered B uses under the building construction code. It is the same use as a typical office which the building was made for. It is a good use of the space that is there. Currently it is an office space. I would like to go over some of the Board's questions in regards to the changes to the building. According to the photograph on the side entry of the building there was a double door there. We are proposing to keep the exact opening but make that the one door into a single door and the door on the right side into a side light. Double doors are not required for this facility because of the egress requirements. That door is really for staff entry. The entry that is being proposed on the brick wall at the existing door there is a new single door which leads you into the waiting room, which is the main waiting room for the endoscopy center. The movement of people is controlled by the State Department of Health. What they wanted to do was have the staff have their own circulation pattern so when they come in through the staff entry they have their own changing area immediately next to their space then they can go into the surgical area without having to go through the other circulation.

The other double door entry is in line with the public corridor that would lead to the elevator. The guide rail is an improvement. The person could step out of the building and not see the car. The guide rail will guide the cars away from the edge of the building and give visibility to the car and the pedestrian. Ms. Unhoch questioned: Is there such a thing as a historic guide rail that will blend in with the architecture? Mr. Horton stated: I haven't seen it. Chairwoman McCabe stated: You will be guided by the Historic Commission on that.

Mr. Horton stated: Exhibit A-3 A4.01 is an elevation drawing of the Annex side of the building. The top right hand corner is the front elevation facing Church Street. The middle picture is a continuation of photo above and shows the remainder of the building. The left side shows the remainder of the building on the left side, which is the newer building. The front of the building is more the historic side. The building in between is recessed. There is an existing canopy there. We are proposing to dress up the canopy with an entry sign. What we are proposing for the new edition is to create a new set of doors on the side entry where the retaining wall is and you can see an elevation of the guide rail. We are proposing on the other side of the entryway some traditional lanterns. Next to the new proposed door there will be a 2-1/2 feet by 2-1/2 feet sign that would address the entryway to a potential tenants that the entry is servicing.

In the photograph at the top right there is a Church Street sign which is a thin sign and consistent with signs that are there. That is going to remain. There is an existing sign on the building which is small and we are not proposing any changes to that.

Mr. Horton went back to the plan. On the side of the building with the proposed generator, this plan shows the door swings with the access panels. We are proposing a public door on that side. The location is where one of the windows is so we can have access to maintain the equipment. There are no other changes proposed on that side.

Mr. Ricciardo questioned: The front 2 rooms Class B operating room and endoscopy procedure room, the indication along the existing wall a new stud wall? Are those windows going to be closed up? Mr. Horton stated: Yes. Mr. Ricciardo questioned: Are the windows going to be removed? Mr. Horton stated: No. Mr. Ricciardo questioned: So the existing curtain walls are going to remain and you are going to build a partition behind it? Mr. Horton stated: Yes. Mr. Ricciardo questioned: How would you finish that partition? Mr. Horton stated: We will put a blind there and frame it inside. The other way would be to paint them out.

Mr. Zierak questioned: Other improvements being made to the premises is the location of the concrete pad for an emergency generator. Can you discuss for the Board what type of generator is proposed and what the function and purpose is? Mr. Horton stated: The State regulation is that whenever you have a surgical suite you are required to have an emergency generator. That is the supply for emergency lighting and light support functions. This generator is to service the endoscopy portion of the project. The unit is diesel fuel source. The pad is the size of the enclosure and under the enclosure is similar to a gas tank. It is flat and 8 to 10 inches high and sits underneath the unit. Mr. Soloway questioned: How is the fuel going to be delivered? Mr. Horton stated: They would drive along the street and have a hose go over to the unit. There is a grass walkway between the two buildings where the generators could go. Mr. Soloway questioned: If it's emergency it wouldn't be on, right? Mr. Horton stated: No. Mr. Soloway questioned: Is it tested weekly? Mr. Horton stated: The equipment is set up with a timer to test itself on a weekly basis. It would run anywhere from 6-10 minutes to test itself. If it doesn't operate normally it would send a signal. Mr. Soloway questioned: The testing would be during business hours? Mr. Horton stated: Yes, during the daytime. Mr. Zierak questioned: That would be once a week? Mr. Horton stated: Yes. Mr. Zierak questioned: How long would the test cycle take? Mr. Horton stated: 6-10 minutes. Mr. Soloway stated: Typically the noise limits are higher during the daytime than the evening. Mr. Ricciardo questioned: Is the unit a double line tank? Mr. Horton stated: Yes. We are proposing to get the heavy duty liner and silencer enclosure. Mr. Soloway questioned: It will comply with the State noise standards? Mr. Horton stated: The State noise standards does not regulate the noise requirement when it's in operation but during testing it is regulated. Even with the heavy duty liner and silencer the noise level that we are getting from the manufacture is that they do it at 3 meters away. At 3 meters away the DVA level is 66 and I believe your ordinance is 65. The only way to reduce that is distance and with the site constraints there's nowhere to place the generator. Mr. Soloway stated: During non-exempt periods. It is exempt when operating in an emergency. You are required to comply with the applicable standards. If the Board approves the application, I would suggest that be a condition. Mr. Horton stated: That was the only left over space available. Mr. Soloway stated: The Planning Board does not have the authority to authorize a deviation of the noise ordinance or a DEP noise standard. Mr. Simmons questioned: There's no other room in the building like a utility room that you could use to have the generator inside? Mr. Horton stated: If we put it inside we run into code issues with diesel. You would have to create a building and totally ventilate the wall. Mr. Ricciardo stated: It's not impossible. Mr. Ricciardo stated: We've done it. Chairwoman McCabe stated: The applicant can work with Mr.

Simmons. Mr. Soloway stated: If the Board wants to limit it to some general time of the day and you can ask the applicant. Mr. Simmons stated: They don't transfer over. The normal electric from the electric company still remains in place. It just starts the generator to exercise the modem. Sometimes when the electric goes out there is a delay before the generator kicks an automatic transfer switch and turns the power over. Mr. Ricciardo stated: Strictly operational and has nothing to do with the electricity in the facility and no interruption.

Mr. Ricciardo questioned: The door that you are putting in the handicap vestibule door that leads to the elevator. That is in the historic part of the building. Will you try to match the historic character of the building? Mr. Horton stated: Yes. Chairwoman McCabe stated: They will have to work with the Historic Commission.

Mr. Drew, Professional Planner in the State of New Jersey. Currently I am Planning Director with Westfield Township. Prior to that I was the Planning Director with West Milford for 17 years. The Board accepted Mr. Drew's qualifications as a Professional Planning witness.

Mr. Zierak questioned: Mr. Drew, prior to coming here today did you review the plans that were submitted to the Board? Mr. Drew stated: Yes I have. Mr. Zierak questioned: Have you visited the site? Mr. Drew stated: yes. Mr. Zierak questioned: Have you reviewed the Zoning Ordinance in the Town of Newton? Mr. Drew stated: Zoning Board Ordinance, the Master Plan, and the Historic Preservation. Mr. Zierak questioned: What Zoning district is this property located? Mr. Drew stated: In the C-1 Zone Professional and Office Zone located along Church Street and at the corner of Linwood Annex. The property on either side of the lot along Church Street is all located within the same zone along with the properties across the street. Mr. Zierak questioned: Mr. Simmons made a comment in his report about whether the Endoscopy Center would fall within the permitted use in this district which is the general and business offices. Would you address that? Mr. Drew stated: I have spoken with the Community Development Director and she has advised that it's her opinion that this does fall within the professional office uses. It's not related to hospital type medical activities in terms of emergency type facilities. This is a professional office that conducts some medical testing and medical procedures. The determination has been made that it is a permitted use and the jurisdiction is before the Planning Board. Mr. Zierak questioned: Earlier I asked Mr. Walker about the 2 existing conditions variances. Is it correct that nothing here will change those conditions? That is the front yard setbacks. Mr. Drew stated: Yes. Mr. Zierak questioned: Could address the variances that are required in connection with the application the applicable standard for determining whether to grant variance relief and express whether your opinion the proof warrants favorable consideration by the Board for granting that variance relief? Mr. Drew stated: This is an existing neighborhood. All the property is developed. All the infrastructure is in place. All the parking that is available for these uses already exists. All the properties along Church Street on the applicant's side of the street are residential uses with the exception of the property across from Linwood Annex. Those properties have their own parking. Across the street the 2 churches plus a non-profit organization. For the time this facility would

be in operation, the church has no high demand for parking. The non-profit organization has its own parking. The variances that are being requested are all existing conditions in terms of the building setbacks. We are not doing anything to encroach upon the existing setbacks. Simply looking to reoccupy the building. The neighborhood has functioned in this neighborhood with the building for a number of years. The intersection site distance would not be impacted by this. There is not adverse impact to the neighborhood. The testimony from the doctor is the loading docks are not necessary. There has been no loading dock facility with this building in the past. With regard to the parking spaces, the engineer reviewed the existing conditions and the proposed conditions with regard to the activity and the fact that we are reducing the required parking by 18 spaces with the occupancy for this medical facility. The fifth variance has to do with the parking spaces not meeting the minimum square footage requirements of Newton's Ordinance. Again, an existing condition. I have inspected the site 2 times. I have seen the parking facilities. They function. There is no space too small for passenger vehicles. SUV's and trucks have been seen in the parking lot occupying only one space. I believe this application presents a C-2 Criteria in terms of variance. The benefits outweigh any detriment to the neighborhood. This allows the occupancy of an existing building that now is 2/3 or more vacant. It presents potential blight on the neighborhood. It is a benefit to the neighborhood in addition to reoccupying a commercial facility with a viable business that will help with the Township coffers. There are some additional criteria with regard to the Municipal Land Use Law that are promoted by the granting of these variances. I will read them. To encourage Municipal actions to guide the appropriate use for development of all lands in the state in a manner which will promote public health, safety, morals and general welfare. This proposed use will be occupying an existing office building with the use that will promote public health by the occupancy of a medical facility and promote public safety by reducing the parking needs by what would otherwise be required by an office occupancy at a rate of one space per 200 square feet. Provides adequate light, air and open space for not doing anything to impact the distance setbacks of the building or affect the neighborhood in general simply by the occupancy of the building. To provide sufficient space and appropriate location for a variety of uses namely commercial. Approval of this application will provide commercial uses, medical offices and professional offices in an appropriate location that is within the C-1 Zone of Newton. It will also preserve conservation of a historic site and districts by the re-occupancy of this building. It is being re-occupied by a permitted use in a Zone that will promote the conservation of a historic district by permitting a vacant building to be re-occupied without having to impose substantial outside alterations to the façade of the building. With a negative criteria, it must be shown that the requested variance will not have a substantial detriment upon the public good and will not impair the intent or purpose of the Zoning Plan or the Zoning Ordinance.

Mr. Zierak stated: I would like to go through Mr. Simmons' report. Items 1-4 are more comments. Mr. Simmons stated: On #4 I have a question that arose based on the discussion tonight. There are two front yards involved Linwood Annex and Church Street. The buildings existing and the existing substandard offsets to the front yard. The one question in regards to the access ramp that is shown in the lower right hand corner in the building entrance detail, with that being a wall and more than just a sidewalk. That

was going to be treated as part of the building which is going through the property line. Is there an additional variance for that? Chairwoman McCabe stated: I was thinking about because it's not just asking a variance for the existing structure, but it's making the building less compliant. Ms. Milliken stated: We are not sure what the right of way is there. Chairwoman McCabe stated: Anything will be a condition on encroaching on the right of way. Mr. Zierak stated: If any variance is required, we have requested it be in the Notice. Chairwoman McCabe stated: If it's the right of way, we have another issue. Mr. Soloway stated: In terms of that being a Bulk Variance, I am comfortable with a Notice. It does have that kind of language. The requirement is that we give the Public to receive fair notice of what it is an applicant is proposing and what the import deviations are. I am comfortable with the Notice of 30 parking spaces. I agree with the Chairwoman with not encroaching in the right of way should be a condition in the approval.

Mr. Zierak stated: #5 in Mr. Simmons report we have addressed. Mr. Simmons stated: #5 could say that there is still additional work to be done. Whether the applicant can provide a strong enough enclosure from the standpoint to meet the State regulations for noise level at the property line or in the alternative located inside the building to provide the required ventilation to take in their exhaust and noise inside the building. Chairwoman McCabe stated: That is something you would have to do with Mr. Simmons approval. Mr. Zierak questioned: This would be the State requirement? Mr. Simmons stated: The Stated, Town, County, any and all ordinances that affect it, as well as the Town's Fire Code Official to make sure he is satisfied. Chairwoman McCabe stated: Also the construction detail on the pad. Mr. Zierak stated: We would be glad to provide that as well. As far as lighting in the parking areas, unfortunately those are not within our control. Those parking areas are owned by the County of Sussex. Mr. Ricciardo questioned: Don't you have a lease agreement with them? Mr. Zierak stated: Yes, but it does not permit any alterations by us. It would be something the County had to do. Mr. Soloway stated: Mr. Simmons asked for testimony on what is there. Mr. Walker stated: I don't believe there is lighting. Mr. Ricciardo stated: The parking lot is lit. There is one light on this building and one pole light at the far end parking lot. Mr. Zierak stated: The hours of operation for the Endoscopy Center and the Medical offices are generally through the daylight hours. It is a situation where the applicant is not in control of the parking lot.

Mr. Simmons stated: As you are looking at the plan, it appears that the way the circulation works is that someone would come in from Church Street an if agreeable to the Town Council have the Annex one way going in. When they get to the location about to 8.1 feet, the Southeasterly corner, vehicle circulation would make a left and go across where it says A inlet 499.01 and continue on up and follow through and go out the other parking lot that is on Lots 6 and 7 owned by the County. The question for me is looking specifically Block 709 Lot 9, the one with 4 parking spaces, what agreements are in place to cross easements across all these properties? The agreements for the cross easements and lighting the parking lot for everybody. If there is a situation with offices in the future, they may operate at night. Who is going to take care of the lights?

Mr. Soloway stated: Mr. Simmons question is the cross easements between Lot 8 and 9 on one hand and Lot 6 and 7 on the other. Mr. Zierak stated: The County parking lot abuts Linwood Annex. Mr. Simmons stated: You are crossing a couple of lots, Block 709 Lot 8 is owned by J&J Enterprises and it continues up to the parking lot for the County. The rights of ingress and egress and circulation through the lots, as well as who is going to pay for all the lighting should be addressed. #7 the striping needs to be re-striped, the arrows and directional signs and the do not enter if we are going one way. Chairwoman McCabe stated: If you are leasing the property and the parking lot, you have to be responsible for the striping. Mr. Zierak stated: Lot 9, Block 709 is Mr. McChesney's property. There are only 4 spaces there, 2 of which are handicapped. Is that what you are referring to? Mr. Simmons stated: That's one of the areas we are referring to. I have to check Lots 6 & 7 to see if they need re-striping. Mr. Soloway stated: With the applicant Mr. Simmons is deferring on the County and could be subject to your lease. You indicated that the outset of this hearing that the parking was subject to an agreement not yet finalized with Mr. McChesney, wouldn't it be appropriate to add to that agreement authorization to stripe those spots on his lot? Mr. Zierak stated: That would be up to Mr. McChesney. Chairwoman McCabe stated: As part of this application we would require a very clear understanding of where your handicap parking would be.

Mr. Simmons went on with his report: On #8, details of the signs proposed for the proposed use. Chairwoman McCabe stated: That will have to be approved by the Historic Commission as well as the lighting on the building. Mr. Zierak stated: Yes. Mr. Simmons stated: The one-way has to be approved by the Town Council and the appropriate signing that someone has to put up. Mr. Soloway stated: If it is a Town road, I don't think you can propose that as a condition. Mr. Simmons stated: The applicant is petitioning the Town to change to one-way street. No report from Fire Code official. Need to check with them to regarding one-way. The gas cylinders. I don't know how many cylinders and the Fire Code official has to look at that. Is the building sprinklered or proposed to be sprinklered? Does the entire building have to be sprinklered? Mr. Horton stated: I think it's partially sprinklered. That's something we would check. Mr. Simmons stated: I suggest this be made subject to the Fire Official.

Chairwoman McCabe stated: I am in not in favor of making that one-way. I think it should stay the way it is. I think it should stay the way it is. With ingress and egress in the County parking lot with 30 spaces having an ingress and egress from that, and if the two handicap spaces are utilized and it remains two way Annex, there is no need for the cross agreements between the properties. Ms. Millikin stated: We double checked the Master Plan and it lists Linwood Avenue as the whole area because it ends at the intersection of Church Street. It says the right-of-way width existing is supposed to be 50 feet and it's proposed to be 50 feet. Mr. Ricciardo and Ms. Unhoch agreed. Ms. Unhoch stated: When the County was there they used to double park, so I think this would be a lesser impact. Mr. Ricciardo stated: The County had the use of the parking garage across the street for its employees as well.

Chairwoman McCabe opened it up to the Public.

Anand Dash, Dolan and Dolan, Esq. The reason we are here is because the parking is provided for the building including the medical offices and endoscopy center is provided on the property designated in tax maps Block 709 Lot 6, 7 & 9. Lot 9 is my client's property and prior to my client making contact with the applicant, it was assumed that those parking spaces would be somehow used by the applicant. I think we have acknowledged some agreement needs to be made. Let the record be clear that my client supports the general application. It is a beneficial use to the community. At the Board's discretion there is a need for an agreement. It needs to be clarified again with condition on the grant and variance within reason. Mr. Soloway stated: Is it part of the application that parking spaces on Mr. Dash's client property be utilized? Mr. Zierak stated: It's part of the agreement that we are providing 30 parking spaces. It was assumed when the application was filed that the agreement had been made and concluded, which would be 28 on the County parking lot and 2 on Mr. McChesney's property. Even if an agreement is not reached, we are still correct in representing to the Board that we are providing 30 parking spaces. It's either going to be 2 on Mr. McChesney's and 28 on the County or 30 on the County. Chairwoman McCabe stated: Then we would need to know where the handicap parking is going to be on the 30 spaces. Mr. Soloway stated: My suggestion, if the Board approves the application, is that approval be conditioned upon presentation by the applicant let's say to me and Mr. Simmons of evidence by way of the lease with the County the existence of the requisite, the parking and with reaching an agreement with Mr. McChesney or his company. Without you may have 30 but you may not have handicap. If the applicant can't reach that agreement, the applicant would have to come back. Mr. Dash stated: Mr. McChesney presently owns the property, but if he sells in the future, the question is whether the agreement would be binding. Mr. Soloway stated: The answer would be yes. If the Board approves it, the condition to the lease and proof of agreement authorizing the use of those spaces be presented. If it's not, the applicant will have to come back here because it would be a condition that wasn't satisfied. No building permit will be issued if those kind of conditions are satisfied. Mr. Dash stated: I appreciate that language could be set forth in your condition that no disturbance to the land could be done until an agreement is made.

Chairwoman McCabe recused herself at 10:00 pm.

Mr. Soloway questioned: Mr. Zierak do you have any issue with the Chairwoman withdrawing at this point?

Mr. Zierak stated: I have no objection to the Chairwoman sitting on the case. She heard the testimony.

Mayor Unhoch finished the meeting.

Mr. Wayne McCabe, 83 Main Street, Newton, NJ. I received a legal notice on this and I am within 200 feet. Where the applicant is proposing to put the guide rail, if you look at the site plan, it's missing something. Along Mr. McChesney's building is bollards, steel structures set into the ground away from the building to protect the gas meters. Where the guide rail is proposed to be put you are narrowing down the waste of the hourglass even further than what it is now. For the last 34 years its been used as a driveway. This

may cause a traffic problem because you are narrowing down the area for travel for more than what is there now. This may be remediated by having people use the double door. It was designed that way to protect people walking in and out of the building from the traffic. Mr. Simmons stated: The alternate suggestion Mr. McCabe stated that something be put in to protect when opening the doorway from flow of traffic to the other access door. Mr. Ricciardo questioned: Is he within his right to encroach and build that wall in and walkway in the right-of-way? Mrs. Millikin stated: It's part of his building. Mr. Soloway stated: If the Board approves it, the suggestion is proof of the right to construct in that area. Mr. Zierak stated: I have a picture (Exhibit A-4) Mr. Walker provided from his field crew. Mr. Walker stated: This is the photograph of the Linwood Annex looking toward Church Street with the subject property on the left. Mr. Zierak questioned: Is the photograph marked Exhibit A-4 accurately depict the conditions that exist today at the site? Mr. Walker stated: Yes. As you can see the gas meter is tucked behind the bay and not encroaching in the traveled way. The bollard does encroach a little beyond bay window. Where we have the guide rail proposed and the building where it gets wider, it is 15.4 feet. My position is that we are providing the same maximum width that currently exists. Mr. Simmons stated: My concern is the cross easements with the parking lot and access isle. When I look at the lower left hand corner of the building on Block 709 Lot 9, from the lower left hand corner to the proposed retaining wall looks like 15.4 feet. It goes building to building as far as asphalt goes. The concern is the property line and I don't know what rights the traveling public or the applicant have to cross that property line. Mr. Walker stated: The public travel way is 8.6 feet. Our application is not encroaching within the 8.6 feet. Mr. Simmons stated: It's closer than the existing building. The existing building has an offset in the upper right of 5.3 feet, and the lower right has 4.8 feet. It's making the existing situation worse. It's non-conforming. The travel way where people operate what documents exist or need to be created to memorialize the ingress and egress through the properties. Mr. Ricciardo stated: This should be worked out before we approve this.

Mr. Soloway stated: The Board is saying they need more information where it feels they can comfortably make a decision. We have discussed what is needed in detail which is proof that you can deliver with what you are showing on your plan. We need information relating to what the actual width of the right-of-way is. I am less worried about the County lot because my hope is that it is part of the lease. There is access granted but there is a property in between that is not the applicant's or the County's. If you are showing circulation across that lot, and nothing exists, what's the prevent the owner of that lot to closing it off.

Mr. Soloway questioned: Is there anything else from the applicant that the Board needs to see? Mr. Ricciardo stated: Site lighting with approval from the Historic Commission.

Mr. Ricciardo made a motion to carry the application PB-02-08 with the following conditions: Historic Commission Approval, Copy of Lease Agreement, Copy of Agreement with Mr. McChesney, seek Variance for number of parking spaces, items discussed by Mr. Simmons, fire subcode approval, entrance way extending to the property line, cross easements. Mr. Caffrey second the motion. Roll call vote:

**AYE:** Ms. Unhoch, Mr. Ricciardo, Ms Kithcart, Mr. Caffrey, Mr. Vandyk. Carried to June 18, 2008 at 7:30 pm with no further notice required.

Mr. Soloway stated: As a courtesy to the applicant, which witnesses does the applicant need to bring to the next meeting? The Board stated: Mr. Walker is needed for next meeting.

Chairwoman McCabe made a motion for Mr. Caffrey to serve as Chairman in my absence. Mr. Ricciardo second the motion.

**PB-06-08 Nause, Scott – Block 802, Lot 34, 91 Trinity Street. Conditional Use. Carried to June 18, 2008.**

### **ACQUIRING ENTERPRISES**

Mr. Simmons questioned: If you are standing on East Clinton Street looking at the Acquiring Enterprises building, on the right you have a parking lot, in the area where Domino's Pizza is proposed to go there is a small landscape area that is proposed. The question came up if it was permissible to fill that in with concrete or pavers had not been discussed to have outside tables for outside dining. Mrs. McCabe stated: in the original hearing we wanted as much landscaping as possible because it is close to the road and start. We did not know what uses were going to go in there. If there is a restaurant going in there outdoor concrete would be preferred. Mrs. Milliken suggested: Maybe getting planters as a border. Mr. Simmons questioned if the applicant has to come back for that? Mr. Ricciardo stated: I would like to see what he intends to do rather than have a hearing on it. Mrs. Milliken stated: They are going to have to come back for final site approval anyway. Mr. Simmons questioned: At the June meeting? Chairwoman McCabe stated: Yes, with the materials.

Mr. McCabe requested a special meeting for a financial hardship of his client. June 18, 2008 at 7:00 pm.

**Mr. Ricciardo made motion to Adjourn. Ms. Unhoch second the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 10:40 pm.** The next regular scheduled meeting will be held on June 18, 2008 at 7:00 pm in the council chambers of the Municipal Building.

Respectfully submitted,



**Katherine Citterbart  
Planning Board Secretary**

## Exhibits

Exhibit A-1 Colorized Site Plan

Exhibit A-2 Newton Medical Office

Exhibit A-3 A4.01 Elevation Drawing of Annex Side of Building