

Newton Planning Board
April 16, 2014
7:00 PM

The regular meeting of the Newton Planning Board took place on the above date. Chairman Le Frois read the Open Public Meetings Act and requested Mrs. Citterbart to call the roll. Katherine Citterbart, Board Secretary, stated there was a quorum.

FLAG SALUTE

MEMBERS PRESENT: Mrs. Mattingly, Mr. Elvidge, Mr. Hardmeyer, Mr. Flaherty, Mr. Ricciardo, Mr. Steinberg, Mr. Marion, Mr. Russo, Mr. Tharp, Ms. Logan, Chairman Le Frois

EXCUSED: Ms. Gill

PROFESSIONALS PRESENT: David Soloway, Esq. of Vogel, Chait, Collins & Schneider, Jessica Caldwell, PP, of J. Caldwell & Associates, David B. Simmons, Jr., P.E., L.S., C.M.E., Board Engineer

BOARD SECRETARY: Katherine Citterbart

CONSIDERATION OF MINUTES

Regular Meeting February 19, 2014

Mr. Marion made a motion to approve the minutes. Mr. Flaherty seconded the motion.

AYE: Mrs. Mattingly, Mr. Flaherty, Mr. Marion, Mr. Tharp, Mr. Elvidge, Mr. Russo, Ms. Logan, Mr. Hardmeyer, Mr. Steinberg, Chairman Le Frois

HISTORIC RESOLUTIONS

None

RESOLUTIONS

None

OLD BUSINESS

None

NEW BUSINESS

Newton DMV (#PBWSP-01-2014)
Block 18.02, Lots 2 & 18
Sparta Avenue & Spring Street

Applicant requesting waiver of site plan for 16 temporary parking spaces.

William Haggerty, Esq. of Dolan and Dolan representing the applicant. We are asking for a waiver of site plan approval due to the fact that the applicant has intentions to present a full site plan to the Board within three months and we have an immediate need for some overflow parking for the employees. We will restrict the parking to the employees. The restriction will be accommodated through signage and striping if the Board deems appropriate. We envision that this is a temporary solution to an immediate problem.

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SWORN: Daniel Davies, Engineer, West Milford, NJ. My license is current and this is my first time before this Board. I understand this is providing parking for the DMV for the spillover needs they have today. They require 15 spaces. We show on our plan 16 because it kicks us over for ADA requirements so we took one space from the existing parking lot which will be striped for ADA. I believe the Town is familiar with this site. It is a temporary solution until the site plan application comes in for the adjoining property which would result in the redevelopment of this area. We are not doing any other construction except for a sidewalk connection from this existing lot to another lot. There is an existing hydrant that we want to protect and have no one park in front of it. Otherwise the applicant is prepared to do striping if the Board deems it necessary and provide either paver markers or signage that these spaces are for the DMV and if any one parks there you will be towed at your own expense.

Mr. Ricciardo stated: If the Board was to put a limit on the time frame for the temporary parking would you be okay with that?

Mr. Haggerty stated: Yes.

Mr. Davies stated: It will be one year to 18 months but we will be flexible if it were to be shortened for any reason.

Mr. Soloway stated: When you come in on your full site plan application what approvals will you need besides this one?

Mr. Davies stated: We are at the conceptual stage. We are trying to work out what we want to do at this site. I can't really talk about that because we are still trying to work out the time frame. That will all be integrated to include the spaces.

Mr. Ricciardo stated: I think we should concentrate on how long the temporary is going to be. Until you get the plan developed there is no sense in discussing it.

Mr. Simmons reviewed his April 11, 2014 report starting with page 2, items 2a, 2b, and 2c. He gave a brief history lesson on Camp Iliff and the fire hydrant. He stated: The fire hydrant is on the top of the wall and it used to be along the railroad right-of-way. When the Iliff's came in for Camp Iliff there was a concern at that time with the fire protection and how would they get the water. That particular hydrant was the closest one to access off this railroad bed but it was a situation where it was close but still far from the standpoint that it was up on top of the wall and the grade of the parking lot was several feet below. I remember at the time that Mr. Inga had a concern about that and the Water Department had some issues with trying to get underneath that wall. The agreement that was worked out was the fire hydrant would stay and a gravel ramp was put in on the railroad bed property with the idea of not necessarily driving the truck up there but with the idea of having access to the fire hydrant with the hose to the truck and then the fire hydrant did not have to move. That is the same fire hydrant that we got the easement from Natural Selections, Thorlabs. That is why for the parking lot for Natural Selections Mr. Daniels with his point to stripe it so nobody parks on that side and that is why we met with Mr. Inga which I believe the office did and have a striped area on the lower level where the railroad bed was just so the Fire Department can get in there. This is shown on the plans.

Chairman Le Frois asked: Is the existing parking lot in good shape? Is it safe or are there any pot holes?

Mr. Simmons stated: It is fair. It has been oiled and stoned and patched from time to time.

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Chairman Le Frois asked: In our resolution we would make a comment that maintenance would need to be performed as necessary to keep it up for pedestrian traffic and some level of safety.

Mr. Simmons stated: Yes. To make sure it is safe for pedestrian traffic from those 16 spaces over towards the regular parking lot. I am more concerned with when they get out of the 16 converted spaces, walking towards the concrete sidewalk that would connect the two parking spaces, to make sure someone doesn't trip.

Mr. Simmons continued: In regards to Item 2d the proposed utility easements that we are mainly concerned about, the Town has an existing 12 inch sanitary sewer force main that goes along the easterly side of the old railroad bed. They are not proposing to dig down other than the concrete sidewalk and they are not proposing to have anything in that area. I like to point these things out so they have it in mind for this application plus the development of future site plans. The bike path easement is something they have to integrate in when they come in with their permanent site plan with the overall project. The parade staging easement that may be something that Mr. Davies or Mr. Haggerty would like to address. There is a reservation when that property was sold to this applicant about being able to stage parades. The way it is set up here, if the 16 temporary parking spaces are in the southerly end of the old railroad bed the only means of ingress and egress by vehicles is over from Lower Spring Street. My understanding is when you have parades; I don't know how you will get in and out of there.

Mr. Haggerty stated: The parades will probably be on a holiday or a weekday and this is a State office that we are talking about. They are not open on a holiday and they are not open on the weekend. So we don't foresee that as a problem.

Chairman Le Frois stated: They are open on Saturdays.

Mr. Haggerty stated: We could accommodate for that.

Mr. Russo stated: We send them a letter every year so they know in advance when we are having a parade.

Mr. Soloway stated: The Town has the right to have up to 12 parades. Perhaps not for this application but for the next one if you are proposing to put any structures on that lot I think you have to go to the Town and work something out before you get here. I don't see it as a problem for this application because they are not proposing any structures and the Town will send a notice and there will be no parking for that day.

Discussion ensued on the layout of the parking lot.

Mr. Ricciardo asked: Are you going to put some type of walkway there? Your report indicates that you have proposed concrete pavers or paved walkway.

Mr. Davies stated: We do propose a four foot wide concrete sidewalk (that is shown on this plan). It is pretty extensive. It is like a regular sidewalk out in the street. If the Board would allow us to do something like crushed stone because it is a temporary measure. Something we would have to maintain. We would be more than happy to do that. But if you want a concrete sidewalk, we would install a concrete sidewalk.

Mr. Flaherty stated: I would think for the safety of the people walking, especially after a winter like this, you would want a sidewalk, you wouldn't want stone.

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Mr. Ricciardo stated: I agree.

Mr. Simmons stated: I would recommend for the applicant to provide the temporary striping for the spaces. Not that it is perfect striping but it helps give someone who is going to park there something to shoot for as far as a parking space goes.

Mr. Simmons addressed items 2e, 2f, 3, 4, 5, 5a, 5b, 5c, 6.

Mr. Haggerty stated: In regards to item #6, a connecting walkway will be illuminated for pedestrian safety during night hours including the late night at DMV.

Mr. Davies stated: There is an existing light towards the back of the parking, we did not do any lighting analysis, and we did not anticipate putting any additional lighting. From a security standpoint, the DMV does have a full-time sheriff and we have discussed with the applicant if the sheriff needs to escort people to their cars for safety reasons during this temporary period, it can be done. In the winter it might get dark so we could get a generator operated light.

Mr. Ricciardo asked: Who would control the generator, how much noise would it make.

Mr. Davies stated: It would only be on for an extra half hour to hour in the late afternoon. It is only people to get to their cars. It would not be on all night.

Mr. Ricciardo asked: Would there be any way to tap into their existing light?

Mr. Simmons stated: I noticed on the West side on the old railroad right-of-way there are a series of about 5 or 6 utility poles and on every other one there is a total of three JCP&L flood light fixtures. My suggestion to the Board would be to test the light with those lights on and see if it lights the designated area. They could put in the resolution that JCP&L will allow one of those lights to shine on the walkway so we wouldn't have to worry about the generator.

Mr. Ricciardo stated: I much prefer that.

Mr. Simmons stated: I went through this in another municipality that JCP&L wants to see something in the resolution so they know the Town will approve it.

Mr. Soloway stated: What is your suggestion if JCP&L can't or won't do this?

Mr. Simmons stated: For the applicant to see if they gain permission to put their own light on that pole and take care of it that way. There is a pole there with power.

Mr. Soloway stated: If the Board is so inclined to put something in the resolution that the applicant will reach out to JCP&L to retain permission to mount a temporary fixture on one of their existing poles and if they unable to get the lighting to the satisfaction of the Town Engineer. I get the feeling that you might walk by there tonight and find out that you don't need anything.

Mr. Haggerty stated: Right now we have the extended daylight so we have enough time to solve this.

Mr. Simmons reviewed items 7ai & 7a ii, 7b-normally we require an as-built but being this is temporary, it can be absorbed in the final site plan.

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Mr. Haggerty stated: I think we can solve this. We will do an onsite check. If it is not adequate we will go JCP&L to see if we can solve it directly through them providing additional light or we are authorized to install our own.

Ms. Caldwell reviewed her report of April 10, 2014. In terms of the date I have indicated for the resolution that it be the 12 to 18 months. The temporary parking deemed for the employees only the applicant noted that there will be some type of signs in the spaces. Did you decide what you are going to do?

Mr. Davies stated: We can do whatever the Board advises us to do.

Chairman Le Frois stated: I suggest we put something in the resolution since the signage was part of this exhibit to work with the engineer and come up with a sign that would adequately advise potential parkers.

Ms. Caldwell stated: In terms of the parade easement and bike path easement, we discussed how you will address those parking issues. For the future site plan, I would like to note that I think two parking lots should be connected especially since the applicant owns the parcels and if you are planning on having more permanent parking there should driveway access from DMV.

Mr. Soloway stated: You should take into consideration to have sufficient money deposited in to your escrow account to cover the various fees.

Mr. Haggerty stated: I agree.

Discussion ensued on the length of time. 18 Months was agreed upon by the Planning Board.

Mr. Ricciardo asked: What is required for an approval. He continued with, we have the design standards that Ms. Caldwell brought up that have to be met, the signs that have to be approved by the engineer, the light from JCP&L or by them but no temporary lighting energized by a generator and the walkway also needs to be noted as temporary and continual maintenance of the parking area should be included in the resolution as well.

Mr. Hardmeyer asked: How about snow plowing?

Chairman Le Frois asked: How about maintenance adjacent to the lot, weeds, etc.?

Mr. Tharp asked: What if after 18 months nothing changes?

Mr. Soloway stated: We will put it in the resolution if the 18 months expires and they haven't implemented a successor site plan or obtained an extension, then they will have to cease the use immediately and if they don't the zoning officer will take them to court.

Mr. Tharp stated: Will they have to remove the striping and the sidewalk?

Mr. Soloway stated: Yes. We would want that. It should be stipulated if for some reason a successor site plan doesn't come in and this expires, they not only remove the vehicles but they will remove any improvements as directed by the Town Engineer. I would think you would want to remove the striping.

Mr. Flaherty asked: Will we have signage stating "employee parking only" in this area?

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Mr. Haggerty stated: We could put signs on the property and have a sheriff come out and check.

Mr. Davies stated: If the sign is indicated at the beginning, you are basically entering private property by property lines and you cannot be there so you would come back. It will be up to the sheriff on how to handle it.

Chairman Le Frois opened this portion of the meeting to the public.

1st Public- Sandy Digilio, 5 Paterson Place, my only concern is the parade. When we have the parade on Saturday after Thanksgiving some of our people tried to park in the DMV and there were a lot of objections. We have concerns about that. My concern is the DMV is now parking on the other side where we are lining people up. Will there be any issues?

Mr. Soloway stated: The point was when there is a parade they get notice and there will not be any parking along this area on that day. In terms of your concern, it should be the way it has been.

With no more public coming forward, Chairman Le Frois closed the public portion.

Mr. Ricciardo made a motion to approve 18 months of temporary parking, the owner will continually maintain the property, they will investigate lighting either through JCP&L or their own lighting system without a generator at any time, they have to meet the design standards that the Planner has indicated, they are going to provide signs for parking both on Spring Street and in the parking lot subject to the engineer's approval, put in temporary sidewalk, temporarily stripe the parking lot, provide the escrow account so the fees involved with the processing of this are included.

Mr. Soloway stated: I would correct one thing regarding the design standard and that is they are not required to comply with ordinance design standard because of the temporary nature.

Mr. Simmons stated: The applicant should verify when they touch base with JCP&L that all power costs are in the applicant's name. I wasn't sure if the lights were originally put in under the Town's name or whose name.

Mr. Marion seconded the motion.

AYE: Mrs. Mattingly, Mr. Flaherty, Mr. Marion, Mr. Tharp, Mr. Elvidge, Mr. Ricciardo, Mr. Russo, Ms. Logan, Chairman Le Frois

DISCUSSION

Ordinance to Amend the Code of the Town of Newton by revising Section 166-20 regarding expiration of Planning Board approvals.

Ms. Caldwell stated: This is something that you requested last year; you had asked the Town Council to adopt an ordinance that would set expiration dates for various approvals so that has been done.

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Mr. Soloway stated: It is here for Master Plan consistency. There is a sun setting ordinance for any variance approval. I think it automatically expires within a year if you have not commenced construction. This ordinance essentially leaves that provision in place for variance only applications. Your deck filings, setbacks for examples but for any variance that is part of a site plan or subdivision application, it extends the period of protection so it is coextensive with the period of protection that the site plan or subdivision gets under the Municipal Land Use Law. What it also does is it says at the end of that period of protection essentially if you haven't started building the project then the approval lapses. The way the ordinances are now, if you have a site plan approval or a subdivision approval that isn't tied into a variance at the end of the statutory period of protection under the Land Use Law nothing happens so technically the thing is forever unless or until the ordinance changes in a way or something that is the subject of the proposal is non-conforming. I think on many applications that were not built that is exactly what would happen. I think it is an improvement. This fixes the problem from the other end because there was no sun setting on site plans or subdivisions that didn't have variances. So someone could come in and get a site plan approval and do nothing for 10 years and then 10 years later unless the ordinance changed that it no longer complied, you could go down to the construction office and pull a building permit. I don't think the Town wants that. This is fairer in both directions.

Mr. Hardmeyer asked: What if there is a change in ownership?

Mr. Soloway stated: It is irrelevant. The approvals run with the land not with the applicant. All you are required to do as a Board is to make a finding that it is not inconsistent with the Master Plan and direct the Board Secretary to transmit the finding to the Town Council. Once it has been introduced by Town Council it comes back to you.

Ms. Caldwell stated: This is just a discussion to make comments. Nothing has been introduced to the Town Council. We just want to let you know that there is a change in policy.

Chairman Le Frois stated: It sounds fine the way it is.

CORRESPONDENCE

The correspondence that was in the packet was reviewed.

Ms. Caldwell stated: Regarding the Recommendation for Horton Mansion, there is a report of notice of what happened at the Historic Commission. There will be a meeting on April 28, 2014 if anyone is interested to come to the Town Council. Whatever their decision will be, it will be made via ordinance and referred to the Board for consistency.

EXECUTIVE SESSION

NONE

PUBLIC PORTION

No public stepping forward, this portion of the meeting is closed.

Mr. Flaherty stated: There have been some issues that have come up lately on arrays with panels blocking access for the fire department, being able to vent roofs, and problems with the

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fact that they cannot be de-energized and they are live so it is presenting problems to firefighters. They can be shut off at the inverter but that does not turn off the power that is being generated by the panels and it is a hazard. There aren't any standards on this yet. Is this something we should be looking forward to address in our standards?

Mr. Ricciardo stated: Yes it is.

Mr. Flaherty asked: Who do we contact for it?

Ms. Caldwell stated: You can make a recommendation to the Council. Ordinances can come from the Planning Board as a modification or the Council can start an ordinance and send it to the Planning Board for review. You can have Kathy transmit a letter to Council to take a look at it.

Mr. Ricciardo stated: It is going to require a lot of study.

Mr. Flaherty stated: There is no standard right now. I think California is the first to look into establishing a standard. There have been several fires where the fire fighters were unable to vent the roof because of the panels and there was a situation where they were afraid to go up because they were still energized. It is definitely something that needs to be looked at.

Chairman Le Frois stated: So we will do a letter of concern to the Town Council.

Mr. Hardmeyer stated: The Shade Tree Commission along with the Town of Newton had a very successful tree seedling give away. We had about 500 seedlings and most of them were picked up. We feel it was quite successful. I think we will do it again.

ADJOURNMENT

Mr. Ricciardo made a motion to adjourn the meeting. Mr. Flaherty seconded the motion. The meeting was adjourned at 8:09 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on May 21, 2014 at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary