

Newton Planning Board

July 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

OATH OF OFFICE: Kevin Elvidge and Dan Flynn

MEMBERS PRESENT: Mr. Flaherty, Mr. Tharp, Mr. Elvidge, Mr. Flynn, Ms. Logan, Mr. Hardmeyer, Chairman Le Frois

EXCUSED: Mrs. Mattingly, Mr. Marion, Mr. Russo, Mr. Steinberg, Ms. Gill

PROFESSIONALS PRESENT: David Soloway, Esq. of Vogel, Chait, Collins & Schneider, Jessica Caldwell, PP, of J. Caldwell & Associates, David B. Simmons of Harold Pellow & Associates.

BOARD SECRETARY: Katherine Citterbart

CONSIDERATION OF MINUTES

June 18, 2014

Mr. Hardmeyer made a motion to approve the minutes with modifications to Page 11 to change Mr. Russo to Mr. Ricciardo and the word from recreation to reclamation. Mr. Tharp seconded the motion.

AYE: Mr. Tharp, Mr. Elvidge, Ms. Logan, Mr. Hardmeyer

ABSTAINED: Mr. Flaherty

HISTORIC RESOLUTIONS

None

PUBLIC PORTION

Chairman Le Frois changed the order of the meeting. He called any one from the public to come forward.

Mr. William Haggerty, Esq. of Dolan & Dolan, representing Julie Richard, LLC, came forward and stated: We were hoping to get in this evening for a public hearing but we did not have time to get the notice in the paper by the time all the submissions were put together.

Mr. Haggerty continued: This is the Moose Lodge property. It is 3 lots we're dealing with down in that area by the Moose Lodge to create a commercial lot. We have the parking area in the front which is behind Camp Hill. We had the TRC process and changes were made based on recommendations. I wanted to ask for your consideration for a special meeting. We are under a lot of pressure with a potential tenant for one of those sites in terms of making progress. I don't know if the Board is amenable to having a special meeting. We are thinking Wednesday July 30 or Thursday July 31st?

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Chairman Le Frois polled the Board.

Mr. Haggerty received special meeting date of August 7, 2014 at 7PM, notice required.

Chairman Le Frois closed the public portion.

RESOLUTIONS

Katherine Member (#FMJSK-02-2014)
Block: 14.04, Lot 30
65 & 67 Madison Street
T3 Zone

Resolution granting final major subdivision

Ms. Logan made a motion to approve the resolution. Mr. Hardmeyer-seconded the motion.

AYE: Mr. Flaherty, Mr. Tharp, Mr. Elvidge, Ms. Logan Mr. Hardmeyer

OLD BUSINESS

None

NEW BUSINESS

Solar Enterprises, LLC (#SPV-01-2014)
Block 8.07, Lots 5 & 6
15 & 15A Jefferson Street

Applicant is requesting minor subdivision, site plan and variance approval for a two-lot subdivision for relocation of a boundary line between Lots 5 & 6 in Block 8.07 and a variance for a 6 foot fence in the front yard of Lot 3 in Block 8.07.

Chris Quinn, Esq. of Morris Downing & Sherred represented the applicant tonight.

SWORN: Rudolph Solar Sr. and Rudolph Solar, Jr.

Mr. Quinn stated: The one building is on Lot 6. We propose to move the lot line so both commercial buildings will be on Lot 5 and the residential building will be by itself on Lot 6 and Lot 3 comes into the equation because we are seeking a 6 foot high chain link fence in the front yard. On Lot 5, they will construct a 138 sq. foot addition. It will be a small breezeway that connects the two structures. We are creating a 2.4 rear yard setback where 3 feet is required on the new Lot 5. So we are looking for the rear yard on Lot 5 and the front yard fence on Lot 3. In the TRC meeting a question arose as to where the tenants in the residential building on Lot 6 would park? In answer to that, we said they would park in the lawn area off Washington Street on Lot 6.

Mr. Quinn asked Mr. Solar: How many apartments are in the two-story framed dwelling?

Mr. Solar stated: Two apartments, one up and one down. Both apartments have one bedroom.

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Mr. Quinn asked: How many parking spaces have you proposed on Lot 6.

Mr. Solar stated: We really just want to put 2 in but if we have to we will put in 4.

Mr. Quinn stated: You could get the two parking spaces in the 3rd layer which is towards the rear of the house?

Mr. Solar stated: Yes.

Mr. Quinn stated: If you do that do you meet the RSIS?

Ms. Caldwell stated: The requirement is one per dwelling unit.

Mr. Tharp asked Ms. Caldwell to explain what the layers are.

Ms. Caldwell stated: It is in the ordinance. The 1st layer is the front yard setback, the 2nd layer is where the building is and the 3rd layer is the rear yard.

Mr. Tharp asked: How do you classify it because it is a corner lot?

Ms. Caldwell stated: It will have 2 front yards.

Discussion ensued on the parking since there will be 2 front yards.

Mr. Soloway asked: You indicated you will be putting it in the 3rd layer. Where exactly will you be putting it?

Mr. Quinn stated: As far away from Washington Street as we can get. It will be to the Westerly side.

Chairman Le Frois asked: Looking at the plan, as far to the left as you can put it, but it would still be accessed from Washington Street?

Mr. Quinn stated: Yes.

Mr. Soloway asked: If you are looking from Washington Street, you would be proposing the two spots at the rear of the southerly side yard?

Mr. Solar stated: It would be on the left hand side looking at the front of the bldg. from Washington Street.

Discussion ensued on the parking.

Mr. Tharp asked: Are the apartment rented? And how many people are in each apartment?

Mr. Solar stated: Yes, one down stairs and two upstairs. They own one car. The person downstairs does not own a car.

Mr. Tharp asked: What happens in the future if you decide to change tenants?

Mr. Solar stated: We do have parking spaces that we can rent.

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Ms. Caldwell stated: This is something you can control how many tenants and cars in your leases.

Mr. Quinn asked Mr. Solar to explain his request of a 6 foot chain link fence in front of Lot 3.

Mr. Solar Jr. stated: We would like to have the fence because it is a storage lot for the cars I work on at the shop. The insurance company would like a secure storage area. The problem is when they are disabled, they are outside and I am right by the street. I have had instances with broken windows and I have gotten broken into a few years ago. I want to have a spot where I can securely keep them. I have kept them in the shop or in the barn but sometimes I get an overflow where I need extra space.

Ms. Logan asked: Is the chain link the only option?

Mr. Solar stated: We were talking about the chain link being vinyl coated in black so it will look nicer than the steel. There will be a sliding gate which will be manually controlled. The mechanism will be on the inside of the property.

Mr. Hardmeyer asked: Would you be able to make the fence look a little less industrial looking?

Mr. Solar stated: There really is no way we can landscape it. There is not a lot of room on Jefferson Street. It is a one way. The idea of the 6 foot fence is to try to discourage someone from taking, for example, someone's wheels from their Mercedes.

There was discussion from the Board on the vinyl and how it will look.

Mr. Elvidge stated: I think this is kind of a low impact site especially in a light area. I don't have a problem with a chain link fence that is black. A 6 foot fence will serve a better purpose than a 4 foot or a 5 foot. It would be more visible of what is inside as the police drive by in lieu of a solid fence.

Mr. Quinn stated: As part of my notice for this application, I noticed for this facility to be licensed as a used car dealer. The reasoning behind that was when times are slow Mr. Solar goes to a car auction and buys a car, brings it back, works on it and then sells it. In order to do that he needs a used car dealer's license. To get a used car dealer's license, there is a stack of paperwork that needs to be filed with the State. One of the pieces of paper asks that the Zoning Officer certify that this site is approved for a used car dealer's license so we are asking for that as well.

Mr. Hardmeyer asked: Does the use car dealer's license require a variance?

Mr. Quinn stated: No.

Mrs. Caldwell stated: It is permitted in the zone. No more than 5 disabled vehicles outside at one time are permitted.

Mr. Soloway stated: The Board does not have the authority to grant the license. I think the applicant is looking for recognition by the Board that, that type of activity meeting those conditions is a permitted activity at this property.

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Mr. Tharp asked: If this property was sold, those conditions are still viable and would be transferred to the new owner of the property because it is permitted?

Mr. Soloway stated: Yes.

Mr. Flaherty asked: Is there any limit on how many vehicles can be for sale on the property?

Ms. Caldwell stated: Not really, it was only pertaining to the ones that are not operable.

Mr. Simmons addressed his report of June 11, 2014. He stated for Lot 3, the lot coverage is shown as 30% and I scale closer to 93%. The coverage needs to be checked by the applicant's land surveyor. Lot 5, the breeze way is proposed for 138 sq. ft. and that involves a proposed building over an area that has existing pavement. The existing rear yard setback is 2.4 and 3 feet is required. Again, the proposed subdivision does not alter that. So in my opinion, that is not an issue. Lot 6, which is the reconfigured yard, there are a couple of conditions where the existing building setback is zero and two feet is required, the proposed subdivision is not creating that or changing it. Item 1. c. ii, the proposed rear yard setback is two feet, and three feet minimum is required. This is a variance due to the relocated lot line. A new variance would be required. The proposed parking lot has been discussed. The applicant also spoke about the apartment units and bedrooms. The lot coverage is shown as 45% but I scaled approximately 60%. This should be checked by the applicant's land surveyor.

Site Plan- On the latest revised map, the applicant has shown their proposed parking area and what is in the lawn area. The biggest thing on that is the timing of the construction of the proposed driveway/parking area to be discussed with the Board, versus when the subdivision will be memorialized. My suggestion is that the parking area be constructed before the Deeds are filed to avoid any bonding issues.

Mr. Solar stated: I would want to hold off on the parking because right now it is not an issue and I would like to be able to recoup my money. I would like to hold off for about 18-months if possible.

Mr. Quinn stated: Your concern would be addressed by a restriction in the deed of the residential property that restricts it from being sold until that parking lot is put in.

Mr. Simmons stated: What Mr. Quinn is saying is if there is a deed restriction that says that can't be sold until the parking is constructed.

Mr. Soloway stated: You have three choices. The first is to make them do it before they record the subdivision deeds. They will have 190 days from next month to record the Deeds. The second choice is to make them bond it and then they have to go to the Council which is an extra step, the third choice is you allow them longer time to do it and protect yourself by putting in a deed restriction which will fine the next guy. I would put a time limit on it.

The Board agreed on the third option.

Mr. Solar said he could live with 18 months.

Mr. Soloway stated: That will have to be a restriction of the subdivision.

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Mr. Simmons continued with his report. Section 240-7H requires sidewalks along streets, with regards to along Jefferson Street, there is not much room. There is a grass strip along the Jefferson Street side of Lot 6. However, there is an existing utility pole and fire hydrant that would be close to the middle of any sidewalk proposed. A waiver will be required. I have also noted that the existing paved areas by Lot 5 basically come right out to the edge of pavement of Jefferson Street.

Under construction details for the fence, no barb wire or anything on top of black vinyl chain link or roller gate. The tax lot numbers to be approved by the Town Tax Assessor. The Sussex County Planning Board approval is required. The change from major to minor subdivision has been done.

Chairman Le Frois asked the applicant: Are you going to be adding any lighting outside due to the installation of the fence?

Mr. Solar stated: No.

Discussion ensued on the driveway.

Mr. Soloway stated: It would add to the pervious coverage on Lot 6. They cannot add more because it violates the ordinance requirements.

Chairman Le Frois asked Ms. Caldwell to go over her report.

Ms. Caldwell stated: I did my report as of June 9, 2014 and I think we covered everything.

Chairman Le Frois opens this portion of the meeting up to the public.

With no public coming forward public portion is closed.

Mr. Soloway crafted a motion: Lot 6 will have two parking spaces located in the left rear as you look in from Washington Street, to the satisfaction of Mr. Simmons, driveway access to those parking spaces with 12 feet in width, to the satisfaction of Mr. Simmons, you would grant a variance to allow a 6 foot high fence on Lot 3 for storage purposes, that would be black vinyl chain link, clad fence with a manually controlled sliding gate, granting a waiver from the sidewalk requirement, granting a waiver recognizing allowing the minimal motor vehicles sales and repairs to disabled vehicles on the condition that they comply with all the requirement in Section 320-28H of the ordinance. You would be granting for Lot 6, the setback variance to allow a rear yard setback of 2 feet in lieu of the 3 feet that is required. Those parking spaces on Lot 6 are not technically located in the 3rd layer. You would be granting relief from that. You would be granting a variance to allow the fence on Lot 3 be 6 feet high rather than the 4 feet maximum, you would grant a variance to allow it in the front yard which is prohibited. You would grant a variance to allow for pervious coverage on Lot 5 which is the commercial lot which is 88% where the maximum is only 80%. You would comply with the recommendations set forth in Mr. Simmons' report of June 11, 2014 specifically on Item 1.v. & 1.a (ii) on the construction of the proposed driveway parking area, the applicant would be given a period of 18 months to construct it and appropriate restriction put in the deed to the satisfaction of Mr. Simmons and myself on memorializing that requirement. To comply with all of the recommendations for conditions 3 through 5 in Mr. Simmons' report, provide the grades and details for the proposed driveway parking area to the satisfaction of Mr. Simmons. This is a minor subdivision which means

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they will have 190 days from the adoption of the resolution to report the deed and the drainage plan to the satisfaction of Mr. Simmons where it would slope to Washington Street.

Ms. Caldwell stated: I don't think there is a rear-yard setback variance. There are two front yards and two side yards.

Mr. Flynn made a motion to approve a motion that contains Mr. Soloway's conditions. Ms. Logan seconded the motion.

AYE: Mr. Flaherty, Mr. Tharp, Mr. Elvidge, Mr. Flynn, Ms. Logan, Chairman Le Frois

NAY: Mr. Hardmeyer

CORRESPONDENCE

Chairman Le Frois acknowledged Mrs. Barbara Mattingly's resignation letter of June 25, 2014 from the Planning Board. The Town Council will pick an alternate for her for the Board.

Chairman Le Frois reminded the Board members to make every attempt to attend the meetings. If you cannot make it, notify Ms. Citterbart as far in advance as possible so that we know we have a quorum.

EXECUTIVE SESSION

NONE

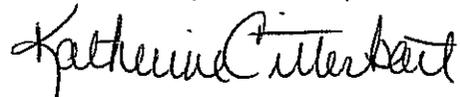
PUBLIC PORTION

NONE

ADJOURNMENT

Mr. Flaherty made a motion to adjourn the meeting. Ms. Logan seconded the motion. The meeting was adjourned at 8:31 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on August 20, 2014 at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary