

**Newton Planning Board  
August 20, 2014 Regular Meeting  
7:00 PM**

The regular meeting of the Newton Planning Board took place on the above date. Vice Chairman Marion 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:** Mr. Flaherty, Mr. Tharp, Mr. Elvidge, Ms. Logan, Mr. Hardmeyer, Mr. Steinberg, Vice Chairman Marion, Ms. Gill arrived at 7:05 PM

**EXCUSED:** Mr. Flynn, Mr. Russo, Jr., Chairman Le Frois

**PROFESSIONALS PRESENT:** Thomas Molica, 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**

**July 16, 2014**

**Mr. Logan made a motion to approve the minutes. Mr. Flaherty seconded the motion.**

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

**HISTORIC RESOLUTIONS**

None

**RESOLUTIONS**

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

Granting minor subdivision and site plan approval with related bulk variances for Block 8.07, Lots 3, 5 and 6.

**Ms. Logan made a motion to approve the resolution. Mr. Elvidge seconded the motion.**

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

**OLD BUSINESS**

None

**NEW BUSINESS**

**Weis Market (PBSP-06-2014)  
Block 9.03, Lot 16, SD-3 Zone  
121 Water Street  
Newton, NJ 07860**

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Applicant requesting minor site plan to modify six (6) regular parking spaces into drive-thru grocery pick up spaces.

Chris Quinn, Esq. of Morris Downing & Sherred represented the applicant. Weis Market put the on-line shopping system in without Municipal approval. We are here to correct that error. Mr. Quinn stated: This is a minor site plan application which results in a minor alteration of the parking area previously approved. Since the approval of the store the zoning has changed and the parking requirement is significantly less than what it was before. Ms. Caldwell brought it to our attention in her memorandum of August 11, 2014. It called for 243 spaces and 323 are proposed now with 6 spaces for on-line shopping.

**SWORN:** Peter Contino, Assistant Store Manager, Weis #143, stated that customers go on-line, do their shopping on-line, then will pull into one of the 6 intercom spots to the store and let us know they are here, and within 5 minutes we bring out their groceries and they pull away just like any other customer.

Mr. Quinn entered **Exhibit A1, dated August 20, 2014** for signage and gave it to the Board.

Mr. Tharp asked: Removing the dangling signage and adding the decals to the bars meets the signage requirements?

Ms. Caldwell stated: Yes.

Mr. Tharp asked: Don't we have to meet the old guidelines?

Mr. Simmons stated: I believe they have to meet the current zoning requirements. This application clean ups a few things. When the applicant came in with the site plan, as I recall, they had just met the parking requirements by the parking that they had on their original application plus on the North side towards South Park Drive they were going to restripe some of those parking areas so they got the required number of spaces. When they got the improvements completed they prepared an as-built plan which was part of the final site plan drawing requirement and what had happened at that time Weis had added a couple additional cart corrals to help the customers and that was a good thing as far as convenience for the customers but technically the problem that Kathy and myself had was they were one or two spaces under what they were required to have. When they were coming back in this past fall that is when we discovered they put the call on-line and show up and pick up your grocery facilities in, so we asked them to update the plan. In the meantime, when they updated the plan, the zoning had changed and the parking requirement changed not only from a practical standpoint but from a zoning standpoint as well and it also went down significantly. A result of that the deficiency of a couple spaces for the cart corrals that were added plus the additional 6 spaces for the call before you shop facility didn't matter anymore based on the new zoning.

Mr. Tharp asked: But we approved the plan under the old zoning for the requirement of the parking spots. So were the cart corrals and the 6 spots added after that project was done and this is a separate project?

Mr. Simmons stated: They were added after the Board approved the previous site plan.

Mr. Tharp asked: Were the spots included in the original plan even though they were not presented to us.

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Mr. Simmons stated: No.

Mr. Tharp asked: For legality purposes does the applicant have to meet the parking requirements under what we thought we were approving.

Mr. Molica stated: The applicant is subject to the new ordinance requirements not what was previously used in the prior applications.

Mr. Tharp stated: It sounds to me that this was tagged on to the original plan.

Mr. Simmons stated: Before the zoning changed, and this other issue came up that was a concern that they may have to come back in for a variance or waiver of some sort.

Mr. Quinn stated: The original approval required 332 spaces and 329 are provided under this plan that was before the zone change so if required by the Board we would have come in and requested a variance for those 3 spaces.

Mr. Tharp stated: I only brought it up because I don't want to set a precedent for others to come back.

Mr. Simmons stated: That is why we didn't write a letter approving it because they had done a nice job improving the building but we did not want to not be technically correct for a variance so as a result of that it went on hold for a while. Then when the on-line shopping came up that got all rolled into one to take care of the whole thing in one swift swoop plus they updated the as-builts and the only thing they have to do now is attach some of the book and pages for the recorded easements. Mr. Quinn is correct, there was technically a variance before but with the zoning change it became a non-issue but we were on top of it.

Ms. Logan asked: Is the drive- thru accessory permitted?

Ms. Caldwell stated: The way we looked at it is an accessory use; we looked at it as a drive-thru structure which is permitted. They are putting it in the front of their building but not in a front yard so it meets the setback requirements. It is under the 25 ft. clearance and meets our requirements.

Mr. Molica stated: There are no bulk variances required, correct?

Ms. Caldwell stated: Correct.

Vice-Chairman Marion asked: With this diagram you gave us are you going to mark the clearance?

Vice-Chairman Marion stated: I think 3 low clearance signs and do not enter decals should be added to the posts.

Vice-Chairman Marion opened up this portion of the meeting up the public. With no public coming forward, this portion is closed.

Vice-Chairman Marion asked: If for some reason Weis decides to abandon this project, I would like something written up that this would all be taken down.

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Mr. Molica crafted a motion. The Board will consider a motion granting minor site plan approval to Weis Markets for the proposed drive-thru area structure and drive-thru service. Conditions of any approval the Board may grant considering this motion are that the applicant has agreed to add "Do Not Enter" decals and "Low Clearance" decals and the applicant has also agreed to restore the site at its own cost to the way it existed before the drive-thru went into effect in the event Weis discontinues the on-line shopping service. The motion was approved by Mr. Hardmeyer and seconded by Mr. Flaherty.

**AYE:** Mr. Flaherty, Mr. Tharp, Mr. Elvidge, Ms. Logan, Mr. Hardmeyer, Mr. Steinberg, Vice-Chairman Marion

**CORRESPONDENCE**

The New Jersey Planner – May/June 2014 Vol. 75 No. 3 was handed out to the Board members.

**EXECUTIVE SESSION**

NONE

**PUBLIC PORTION**

NONE

**ADJOURNMENT**

**Ms. Logan made a motion to adjourn the meeting. Mr. Tharp seconded the motion. The meeting was adjourned at 7:28 PM with a unanimous "aye" vote.** The next regularly scheduled meeting will be held on September 17, 2014 at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart  
Planning Board Secretary

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**Exhibit Page**

Exhibit A1, dated August 20, 2014