

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

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. Board Secretary Mrs. Citterbart stated there was a quorum.

SALUTE TO THE FLAG: was recited.

OATH OF OFFICE was taken.

Sandra Lee Diglio
Daniel G. Flynn

ROLL CALL: was taken

Attendance: Mr. Flaherty, Mr. Marion, Mr. Russo, Mr. Hardmeyer, Mr. Ricciardo, Mr. Hemschof, Mrs. Le Frois, Mr. Flynn, Mrs. Diglio, Mr. Le Frois,

THE SUNSHINE STATEMENT: was read.

Mr. Le Frois stated: Before we move forward we have an item that is not currently on the agenda.

John Badagliacca, Esq. of Garrity, Graham, Murphy, Garofalo & Flinn. I'm here on behalf of my client, Iliff Camps and Clinics, LLC, to make a request this evening if the Board would consider hearing the application at a special meeting before your next regularly scheduled meeting of August 19th. The date my client is proposing is August 5th which is a Wednesday. It's my understanding that the Council Chambers are available that evening. If that date doesn't work she would ask for August 12th which is the following Wednesday. So I make that request on behalf of my client.

Mr. Le Frois asked: What will the extra one or two weeks do?

Mr. Badagliacca stated: He had the same conversation with his client but she is anxious to get going. Even with an approval there is still other things to be done; getting permits granted, getting contractors lined up to do the work. I also understand there is a very busy agenda for tonight; including an application that may or may not get heard this evening. If it gets heard it may not get completed and may get carried over to the 19th. Then there's a possibility that my client may not get heard on the 19th.

Discussion ensued on availability for Board and Professionals on either day.

Mr. Badagliacca stated: If it's too much of a scheduling issue we can keep it on the 19th.

Mr. Le Frois: We don't have the Professionals available for both dates so we won't be able to work it out early.

CONSIDERATION OF MINUTES

June 17, 2015

Not available yet. Will review at next meeting.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

HISTORIC RESOLUTIONS

None

RESOLUTIONS

Newton Dunkin Donuts (PFSPV-04-2014)

65 Sparta Avenue
Block 18.02, Lot: 16 T5 Zone

Resolution granting preliminary & final site plan approval and ancillary deviation and site plan design waiver relief for a Dunkin Donuts.

Mr. Russo made a motion to approve the resolution. The motion was seconded by Mr. Ricciardo

AYE: Mr. Marion, Mr. Russo, Mr. Ricciardo, Mr. Hemschof, Mrs. Le Frois, Mr. Le Frois

The motion was carried.

OLD BUSINESS

None

NEW BUSINESS

Punctuated Equilibrium, LLC (#PBSP-02-2015)

Block 22.04 Lots: 3, 4, 13, 14, 15
83-91 Sparta Avenue

Mr. Le Frois stated: Peter Donnelly, Esq. of Donnelly, Minter, & Kelly, LLC will be representing the applicant. The applicant is requesting minor site plan approval for the grading of the site, and installation of new landscaping and paved areas with associated lighting and any variance, waiver, permits, approvals and other relief that are deemed necessary.

Mr. Donnelly stated: This is a minor site plan application for property that is currently known as the Newton Town Square, part of the Merriam Gateway Project. It is on the corner of Diller and Sparta. I would like to have Robert Cunningham testify.

Mr. Cunningham is sworn in.

Mr. Robert Cunningham from Cunningham Engineering and Design, LLC, gave his credentials as a licensed engineer in the State of NJ and that his license is current. The Board accepted his credentials.

Mr. Cunningham referred to Sheet S2 titled Existing Demo Plan. At the present time the majority of this property is a driveway entrance from Diller Avenue across the street from the Merriam Gateway Apartments. Recently, there were three single-family homes and one two-family home that faced Sparta Avenue that were recently demolished under the individuals wishes. There are a number of public utilities that cross under this property. There is a 72" storm drain, a 42" storm drain, and a 12" sanitary sewer line. Some of those pipes are what they need and some of them are not. At the center of the parking lot there is a large concrete retaining wall to provide a grade separation and there's very little in the way of trees. There's a slight tree line

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

along the property to the south, and some small trees along the property line to the north along lot 5.

Mr. Cunningham stated: The application proposes to clear the site of most of the pavement about 55-60% of the pavement. The part of the parking lot that is in the northwest corner of the site closest to the driveway and closest to John's Barber Shop is to remain. There is a shared parking agreement with Merriam Gateway Apartments which was approved by the Town of Newton.

Mr. Donnelly questioned: Other than that area of asphalt, the rest of the asphalt will be removed?

Mr. Cunningham stated: The rest of the asphalt will be removed. The concrete retaining wall will be removed. The center of the property will be removed. The pipes that no longer serve purpose will be removed. Some of the older lights will be removed as part of the application.

Mr. Donnelly questioned: The asphalt that's getting removed what is it going to be replaced with and what is it going to look like?

Mr. Cunningham stated: Referencing Sheet S3 – the total goal will be to regrade the site to be cleared or already has been cleared by virtue of the homes demolished, to cut down some of the high spots, it basically softens any slopes that are there and to grade down to a walkable slope in the area where the retaining wall has been removed from. The parking lot that remains will be striped.

Mr. Donnelly questioned: Let's stick with the other area for a second. You say it's going to be graded. Is it going to be covered with grass?

Mr. Cunningham stated: Yes. It's going to be planted with grass in accordance with the Soil Erosion Sediment Plan. The part of the parking lot that will remain will be striped.

Mr. Donnelly asked: Will it be repaved?

Mr. Cunningham stated: The proposal as it stands now is just doing some patching. Since this isn't the property owner's final plan they don't see the need right now to totally repave the parking lot.

Mr. Donnelly stated: I understand the property owner has talked to you about this being a temporary project to beautify the area until they have some final plans.

Mr. Cunningham stated: Yes. That's correct.

Mr. Donnelly asked Mr. Cunningham about the new sidewalk proposal on Sparta Avenue because it did show up in the professional Planner's letter. Talk about the current state of that sidewalk, the buffer, the proposed width of that sidewalk, and the potential that that sidewalk gets removed when that site gets developed.

Mr. Cunningham stated: The property owner requested that the existing sidewalk along Sparta Avenue be removed and replaced. The one that's there is in disrepair at best. Some of it is not

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

even 4' wide and it's immediately adjacent to the back of the curb. So in winter when they plow the snow it all goes on the sidewalk.

Mr. Donnelly asked: What are the buffer widths shown?

Mr. Cunningham: The buffer widths were shown as 3' minimum on the cross section detail. The standard, I believe, is a 2' minimum there. I mentioned it as minimum because it is going to meander out to 4' at one point to go around the utility pole. The proposed width that we have on here was 4' and Ms. Caldwell pointed out that in the Merriam Gateway Redevelopment Area, on this section of Sparta Avenue east of Diller Avenue, the minimum is 4'6". The client wasn't actually looking at this as the final iteration of sidewalk along here because, most likely if this site were to be redeveloped and a driveway entrance and exit with a right-hand turn out, that sidewalk would wind up getting ripped out in the future anyway. I did a comprehensive plan for this under the former owners and all that curbing that's along there now would come out. It's not a big issue to make it 4'6". It can be done.

Mr. Donnelly asked: I know that there was some discussion with the client about moving the lighting to the development of the site but the client decided to move forward today to propose a lighting plan for the site even though ultimate development has not been decided on.

Mr. Cunningham stated: Referencing Sheet S4 – The lights that are proposed on the curb are the same Spring City luminaires that Newton uses on the Streetscape projects. Coverage required in the new minimum lighting ordinance had us have to go with six fixtures, 4' deep. The center of the light is 50' above grade, their black just like the other LED fixtures. The lighting engineer at Spring City Lighting actually did the layout and it meets the minimum and the maximum coverage required.

Mr. Donnelly asked if Mr. Cunningham was familiar with the statement in the Engineer's letter about recommending as-built plans to be provided after the project is done?

Mr. Cunningham replied: Yes. The plan was that since this is an interim development, by the time we would come back, that signed and sealed survey would have to be submitted as part of that application at that time and they just asked that that wait until then. It would have a more current date on the new application and it would satisfy the legal requirement.

Mr. Donnelly asked: Is there anything else you want to speak to us about the plans?

Mr. Cunningham replied: Yes. We have applied to Sussex County Soil Conservation District. They did their initial review. They asked us for some revisions, which we didn't make until after we settled on the lighting plan here. So that's recently gone back to Sussex County Soil Conservation District for their certification. We also delivered one set of plans to the Sussex County Planning Department because of the minor grading in the sidewalk on Sparta Avenue. The County has requested a minor site plan application for them which would basically include a short application form and one set of plans. Also, the actual contractor who would be doing the work in the right-of-way would obtain road opening construction permits from the Sussex County Engineering Department.

Mr. Ricciardo asked: Why would your client undertake this at this point in time if he intends to develop it in the future?

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Cunningham replied: There are a couple of reasons. Especially, when the houses were there, it was an eyesore. There are also safety issues with the retaining walls being there. People walk and drive through there at night. It makes the walking a little safer. I did neglect to mention there is a 42" reinforced concrete storm drain under lots 3 and 4. It's been there for quite a while. The client is offering to put an easement over that for the Town of Newton for any maintenance or repair issues.

Mr. Ricciardo asked: Why not provide as-built? There's no big rush to get it developed. Why shouldn't the Town have a set of as-built drawings showing the existing grades and what has been completed here. I think it's absolutely necessary for the Town records.

Mr. Donnelly replied: I think there is somewhat of a cost issue here. They think it is a wasted cost and will have something very soon. They want to clean it up and remove the eye sore. They don't want to spend more than they have to to put it up. They ask the Board to delay the as-built until they have a more definitive plan.

Mr. Ricciardo stated: The Engineer recommended we have one and I would go along with the Engineer.

Mr. Flaherty stated: If they are going to go forward with the new plan they will have to produce one. The cost now of doing it will be less than doing it in the future.

Mr. Flynn: But if that date is two years apart, generally you want to have an existing conditions survey that is nice and up-to-date. Not saying that anything's going to change but let's say this is done in 2015 and they don't come back until 2017, someone is going to say the existing conditions survey is 2 years old; or the as-built of this survey.

Mr. Hardmeyer replied: It could be recertified.

Mr. Le Frois stated: That's something we'll have our professionals weigh in on.

Mr. Hardmeyer asked: Are you doing any fencing in the grass area to keep people out of there and so cars can't drive off the lot in the grass area?

Mr. Cunningham replied: There is no fencing or tree planting proposed.

Mr. Donnelly stated: I think on that score though we are on such a well-travelled road on Sparta Ave. The sight is very open and visible. I think hopefully that won't be a problem.

Mr. Hardmeyer: Not on Sparta Avenue; but it's visible on Diller Avenue. But Sparta Avenue there is quite a hill there. I've walked it a lot. What's the height differential going to be between the sidewalk and the top.

Mr. Le Frois stated: They are taking about 4' off.

Mr. Donnelly stated: It's all to improve the sight lines but also to improve the drainage.

Mr. Cunningham stated: The grading is done in a way that the drainage patterns, after they're graded, will mimic the drainage patterns that are there now. But it will be cut down significantly

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

and I don't know that someone on the sidewalk would be able to see every single bit of the property, but they would certainly see a lot more than they can now.

Mr. Ricciardo asked: What slope are you going to match there? You're going to cut it down about 4'. How far back are you going to carry that cut back to on the existing grade?

Mr. Cunningham replied: Within the first 20' it will be a little steeper, then maybe another 35' and it will slope another foot. Then over to the right side of the property to the northeast we still have to tie into the bank that's on the neighboring property, so there won't be a whole lot of cutting going on right over here in this corner as it would go back. Most of that material is going to get pushed back to make a downslope back where that retaining wall is now.

Mr. Donnelly asked: So the back of the property will be raised if you will?

Mr. Cunningham replied: In the back it won't be raised. About $\frac{3}{4}$ of the way back it will be raised up to make the transition. The high point will still be about where the high point is now; just at a lower elevation.

Mr. Le Frois asked: Have you done any test pits to see if there's rock within that 4' or so?

Mr. Cunningham replied: Yes. There are test pit locations shown on the plan. I did a series of test pits when we were trying to figure out grading and building footings for the previous owner. We dug anywhere from 4' deep and there was one place on site we only got 18".

Mr. Le Frois asked: With the work going on would you see the need for any rock removal or any kind of significant activity like that?

Mr. Cunningham replied: No.

Mr. Marion asked: The body shop that's on the corner of Diller and Sparta Avenues, there's a retaining wall behind his property adjacent to your lot. Is that owned by your client or is that the body shop's retaining wall?

Mr. Cunningham replied: I assume you are talking about over near the street. There is a retaining wall and part of that does belong to the body shop and their sign pole is on the top of that. So we are not going to be touching that.

Mr. Marion asked: If you start digging down the area, the slope, will that affect that wall?

Mr. Cunningham replied: No. We are just tying into the existing grades on our side of the wall.

Mr. Donnelly stated: I think the point in question from the Board member is can you confirm that you will not be removing any material from the backside of that wall because I'm sure the question is, they don't want the wall to be weakened. Can you confirm that you will not be removing any material from the backside of that wall, soil or anything else?

Mr. Cunningham replied: Yes. That is correct.

Mr. Hemschof asked: I noticed the body shop has a fenced in storage area for vehicles. Is that on your property?

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Cunningham replied: Yes. That's indicated around back. There's a chain link fence around it and we are going to leave it the way it is.

Mr. Flynn asked: Does your client own tax lot 1, the auto body shop?

Mr. Donnelly replied: No.

Mr. Flynn asked: Will you need to obtain a construction easement to do the disturbance adjacent to the lot?

Mr. Donnelly replied: No. We won't be disturbing that lot at all.

Mr. Hardmeyer requested: The consideration of planting wildflowers instead of just grass?

Mr. Donnelly replied: We ask Mr. Cable.

Mr. Le Frois opens this portion of meeting to the Public for any technical questions for Mr. Cunningham

No public stepping forward, this portion closed.

Ms. Caldwell reviewing her report of July 9, 2015, stated: I reviewed the plan against the Merriam Gateway Redevelopment Plan. That's the governing plan and the zoning doesn't apply in this area so we have to be clear about that. What they are proposing is a permitted use. I made a note that there are several landscaping requirements. Right now they are just proposing grass. I think that's just an interim use. We just note that that is to be addressed when they come in with a site plan for their next proposal. Additionally, with the sidewalk they are proposing a 4' wide sidewalk with a buffer strip that sounds like it's going to be grass. It doesn't meet the exact standard of the Redevelopment Plan but since they are most likely going to change that area in the future, I think a design waiver will be suitable for that and should be required as part of the approval. That's all I have for you tonight.

Mr. Simmons reviewed his report of July 9, 2015 and stated: On page 2 item 3b, under site plan, I pointed out that the County had done a scoping study years ago with regard to Sparta Avenue, Route 616. While that's not necessarily going to impact this particular application, my concern is, and I'm glad that the applicant is making an application to the County for the minor site plan for the sidewalk, that while they are there they at least discuss their future plans with the County, any kind of grade changes and what have you, so that when the applicant comes back in with their ultimate plan for the property, they and the County are in sync as far as the overall development of the area. I think Mr. Cunningham may have met with them earlier on the previous application for this property?

Mr. Cunningham replied: Yes.

Mr. Simmons continued: The second question I had under item 3c is that the applicant declare prior to proposing to merge lots 3, 4, 13, 14, and 15 at this time, but leave them as separate lots.

Mr. Donnelly replied: We are not proposing to merge them at this time. We are leaving them separate.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Simmons continued: I just wanted to point out to the Board that the applicant did do a good job and had a title search done on the property and it did show many existing easements as Mr. Cunningham pointed out. We noted that when the applicant does work on developing their overall plan for the future we are going to have to deal with those easements and perhaps see if we can get some of them vacated and relocated as necessary for the future plan. I just wanted to make you aware of that. The other thing that title search pointed out, plus our discussion with Mr. Cunningham, was the drainage easement for the 42" concrete pipe. We've always tried to see if there are any easements to take care of during an application. The applicant has volunteered to take care of this easement for the Town at this time.

Mr. Simmons continued: Item e talks about the change in the number of parking spaces. In that title search the required number of 34 spaces did come up in the title search, so the Town was signatory to that agreement so everyone is all aboard as far as the reduced parking lot size.

Mr. Donnelly stated: I think the required was 31 parking spots in section 2 of the agreement. The minimum requirement is 31. In proposing 34, we exceeded the requirements of the recorded document.

Mr. Simmons questioned: Under item f, on the Soil Erosion and Sediment Control Plan, I assume as part of their demolition of various walls and concrete their proposing is to make a stone pile out of some of the grading on site and stock pile it temporarily?

Mr. Donnelly replied: That's an option that the client asked us to show. If they think they can generate enough usable material by crushing or whatever and if their future plans get on some sort of fast track they are hoping to be able to save that material instead of paying to get rid of it and then paying to buy it again in a year or two.

Mr. Simmons replied: My main concern is what is the property going to look like in the "interim". If the applicant exercises that option there may be a stone stock pile in the back, so everyone is aware of it, and we don't come back sometime and say "what is that?" If I'm understanding it correctly, it wouldn't get moved until they've got plans to do something in the future and utilize it again. And it is in the back right corner as we're looking at the plans before the Board now.

Mr. Simmons continued: We talked about easements conveyed to the Town. Regarding lighting, the applicant did provide the minimum of 0.5 footcandle required by the new ordinance in Town. With regards to relocating slightly some of the fixtures because of conflicts with the other utilities, the underground stormdrainage pipes, where the lighting consultant was trying to optimize the light pattern, perhaps didn't take into consideration some of the underground fixtures that we wouldn't want them putting a light on, so we would have to have them readjust them.

Mr. Simmons continued: That goes back to the as-built. My concern on the as-built is, I understand the grading and what you have is an interim situation, but the main part of the as-built that I'm concerned about is the plan that will show the drainage easement that's conveyed along with the recorded book and page of that document, so we actually get that in the Clerk's office and get it on the record.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Donnelly asked: So to the drainage easement, we have to have a professional survey with metes and bounds of the drainage location and attach it to an easement document or something like that. We can do that.

Mr. Simmons replied: Yes. My other concern is the part that we're really putting hard infrastructure in as far as the parking lot, the lighting, the conduits and what have you, we've seen right now, not intentionally, there's been some conflict between the proposed lighting and some of the existing infrastructure, some of which is the Towns', including a force main from the Sparta Ave Pumping Station and my concern is we get an as-built for that because if the Town has a break in their main or has another problem out there and they have to do some repair work, the first thing they do is call our office or look in their files for our maps that we have on the area. If we have an as-built for that area so we know what we're running into or not, that helps their situation as far as making repairs and minimizing disruptions of other utilities. So as far as the as-built my recommendation is that at a minimum we get the easement shown, the metes and bounds, the recorded book and page on the as-built plans so we know it's recorded, and also the as-built of the hard infrastructure of the parking lot area.

Mr. Le Frois asked: So the actual physical improvements that are in the hardscape. Not necessarily worried about the grading or things like that?

Mr. Simmons replied: The grading is an interim situation. The main part is going to be stabilization in accordance with the soil erosion and sediment control for Sussex County. If they're satisfied with that since it's not necessarily going to be the final grade and since they're may be additional changes after meeting with the County Planning Department because of changes in Sparta Avenue, before you put anything permanent, as far as the structure and other site improvements on there, I would be comfortable with that. I would suggest a partial as-built.

Mr. Marion asked: We are saying this is an interim, but we don't know if it's a year or five years. As in Jessica's report where there are some landscaping issues, do we put a deadline that in five years if this isn't changed these go into effect? Interim is open-ended.

Mr. Le Frois asked Mr. Soloway: Is there a definition of what interim means as opposed to some more permanent conditions?

Mr. Donnelly replied: I spoke to the client and they don't know. I've spoken to the engineer and the contractor. There haven't been any concrete discussions about when this thing is going to be developed. They just say they're thinking about different things. You know Alex, you know the situation over at Thorlabs, the business is doing well. The thought is they will one day develop this plan. I don't want to give you the wrong impression. There is no time table. I think Alex is approaching this application and we would like the Board to approach this as, look at what you have out there now. Alex looks at it as an eyesore. He doesn't want to spend this money, but he wants to clean this up for everybody. I understand that this is interim and that you have some permanent landscaping plans. I ask you to not put a deadline on that. The project is going to look much better. I think Alex has shown himself a good citizen in town and he is going to make sure the site looks a lot better than it does today.

Mr. Le Frois stated: I think that it would still be subject to review by the Code Enforcement Officer from time to time.

Mr. Donnelly stated: Of course. You send us a notice and we're going to cut the lawn.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Hardmeyer asked: Should we think about a height restriction on the stockpile? Do we have any idea how high it's going to be?

Mr. Simmons asked: I don't know if he's given any estimates as to what kind of materials are going to be generated or if you've just shown it generally, graphically on the plan?

Mr. Cunningham stated: We've just shown it generally, graphically on the plan. From what I remember from the test pits it was a few feet of stone under the blacktop and there is a significant amount of concrete that might get crushed from the wall in the center of the site. The walls in the front were carted off by the demo contractor. I would venture to say a couple of hundred cubic yards of concrete, recycled through a crusher.

Mr. Ricciardo stated: Will it be left processed during this phase, so it won't be large boulders or rocks?

Mr. Cunningham replied; Yes. That's right.

Mr. Hardmeyer stated: My question or concern was with the height of it. How high do you think it will be?

Mr. Ricciardo stated: That's a pretty big pile of crushed material; 100 cubic yards. How big would it be approximately?

Mr. Cunningham stated: 30' to 35'

Mr. Ricciardo says – that's five 20 yard dumpsters of concrete debris. That's a lot of concrete to pile up on any one site.

Mr. Marion asked: Will this stock pile also include the pavement or is that being carted away?

Mr. Cunningham replied: –We were envisioning the stone and crushed concrete. Not asphalt, the asphalt is going to be carted away.

Mr. Ricciardo asked: Based on the area you proposed to stockpile this, how high on the existing grade or the revised grade will that pile be?

Mr. Cunningham replied: I would say less than 15'.

Mr. Ricciardo stated: That's a pretty high pile of debris.

Mr. Cunningham stated: It's not actually debris. It looks like a pile of crushed stone.

Mr. Ricciardo stated: I know what it looks like and until it is used it is crushed concrete and it is debris.

Mr. Flynn asked: Is there an option to put multiple smaller piles of the material?

Mr. Cunningham replied: Yes, you could do that or you could make one gradual and one a larger pile.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Flynn stated – if the pile is trapezoidal and no higher than 10 feet or larger in the area that would be most sufficient, it sounds like from the comments that I'm hearing.

Open application to the Public

No public steps forward, this portion closed.

Mr. Soloway stated: You could specifically define no greater than dimensions of the pile or you could put a time limit on the pile as opposed to the plan as a whole. You could have it stockpiled to the satisfaction of Mr. Simmons, but I'm sure he would want guidance on what you want. I'll happily frame a motion for you, but I'm not sure what the stand of the Board is on it.

Discussion ensued.

Mr. Donnelly suggested: I know you talked about a smaller number, but a 10' pile, location and dimensions as your engineering department specifies, and maybe requires us to do something with it in 24 months?

Mr. Ricciardo stated: A 10' pile is two 20 yard dumpsters high.

Mr. Donnelly stated: I understand there's not a lot of material but there's material on site, that you heard testimony could be 15' in one pile. I'm thinking they spread it out, maybe two piles, 10', your engineering department tells us where to put it, what it's got to look like, we keep it nice and tidy and if in two years it's still there, we've got to get it out.

Mr. Russo stated: I think that's reasonable.

Mr. Ricciardo added: Put a time limit and it has to go.

Mr. Donnelly continued: Just to clarify. Can the two years be from the date of construction?

Mr. Simmons stated: My suggestion would be that there would be a pre-construction meeting before work begins on the site and the 24 months starts from the day of the pre-construction meeting.

Mr. Ricciardo stated: Ms. Caldwell, you mentioned something about the sidewalk being non-conforming but that it eventually will be. I would like to see included in there that when it is finally developed that the non-conforming sidewalk must be removed and become a conforming sidewalk.

Mr. Donnelly stated: We don't have any objection to that condition. In all likelihood there are going to be turning lanes, as the engineer says that sidewalk is going to go.

Mr. Soloway stated: The motion is to grant preliminary and final site plan approval with a design waiver to allow the sidewalk to be 4' wide instead of the 4' 6" wide requirement. We understand that the sidewalk is temporary pending Board direction or determination of any future application. Other conditions are to provide the Town with a storm drainage easement to the satisfaction of the Town Engineer and the Board and/or Town Attorneys, to comply with item

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

6c on the report from Mr. Simmons, dated July 9, 2015, pre-construction meeting, the stock pile be limited to stone and crushed concrete, no more than 10' in height stored onsite to the satisfaction of Mr. Simmons and will only be permitted to be stored there for 2 years from the date of the pre-construction meeting, that we can mix in wildflowers with the grass if we can, a limited as-built to the satisfaction of Mr. Simmons which at minimum would show the storm drain easement, metes and bounds, book and page reference, and also show any structural improvements, and the site will be maintained in accordance with maintenance ordinance of the Town for curb and lot.

Motion made by Mrs. Le Frois. Seconded by Mr. Russo.

Aye: Mr. Flaherty, Mr. Marion, Mr. Russo, Mr. Hardmeyer, Mr. Ricciardo, Mrs. Le Frois, Mr. Flynn, Mrs. Diglio, Mr. Hemschof, Mr. Le Frois

The motion is carried.

Newton Nursing Home d/b/a Valley View Care Center (#MNSD03-2015)

Block 4.05 Lot 21

1 Summit Avenue

Louis Karp, Esq. is representing the applicant. The applicant is requesting use variance and minor subdivision approval for the property in order to separate the existing house from the existing nursing home on the parcel. The nursing home is not a permitted use in the zone and the subdivision will result in a smaller lot intensifying the non-conforming use and bulk variance relief as the setbacks on the proposed lots do not meet the Ordinance requirements.

Mr. Karp Esq. begins: The application that we are presenting tonight is merely to subdivide an existing property with existing two primary uses and two separate lots. It's being done to simplify bookkeeping and income tax reporting. Jason Dunn from Dykstra Associates, the Planner, is going to testify about the application and the site plan, and Noelle Little who's the Executive Director of Newton Nursing Home.

Jason Dunn from Dykstra Associates and Noelle Little from 1 Summit Avenue are sworn in.

Jason Dunn, Dykstra Associates on 11 Lawrence Road stated he is a professional licensed planner in the State of NJ, also a licensed architect and my license is current. I graduated Rutgers University in 1998 and have been in Land Use for approximately 14 years.

The Board accepted Mr. Dunn's credentials.

Mr. Dunn entered as Exhibit A1, dated 7/15/2015, a colorized version of our minor site plan. Having been introduced, Valley View Care Center, is an existing nursing home, and an existing single-family home on one single lot. Previously this was four lots and it was combined around 2002 and put into one lot for the convenience of the Town Tax Collector. Back then the lot line went right through the building when it was consolidated so we couldn't follow that lot line. What we've done is introduced a new lot line that kind of snakes around the existing buildings. It runs along existing fence lines to the back of an existing shed, between the buildings and along the driveway. The existing lot is .66 acres. It is in the T-3 neighborhood residential zone where single family homes are permitted and nursing homes are not. Since the lot size is being reduced and it's a preexisting non-conforming use the use is intensified just by that occurrence. This triggers a D2 variance and later I'll provide some testimony about how the Board can improvise

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

that. It has been noted as in Ms. Caldwell's report that NJ Courts have seen nursing homes as inherently beneficial and I assume that this Board will follow that precedent. What that means is that the positive criteria are satisfied and the burden of proof is a little different and the analysis is a little different than your typical use variance.

Mr. Dunn stated: It was built in 1950. In the 1960s the owner built a nursing home on the same tract and it's been there since 1961. Since then there was an addition put on to the nursing home in the 1980s. Most recently on the tracts an addition to the back of the house in 2008 came before this Board for a floor area ratio variance and as part of that variance seepage tanks were put in the back of the house to receive drainage from the house. The subdivision itself is to remain 0.18 acres and the nursing home approximately ½ an acre of land. There are several easements that would have to take place in order to accomplish this subdivision, as pointed out in the engineer's report. We did review the engineer's report and agree to investigate or to provide all items that were asked of us. In short, because the lots have been together for so many years there were concerns that some of the utilities went through the lot to service another lot, so we investigated some of that. There is a gas line that goes across the back of the house lot and services the nursing home. We did agree to investigate with the gas company to see what kind of rights they may have and if there's an easement in place already. If not, we would have to do whatever we need to do for that. There's an existing walkway that provides access to the rear of the nursing home across the front line and to some steps on High Street. It certainly isn't being used or maintained by nursing home and they will continue to keep that so it will need to be put in an easement as well so they will continue to have access to High Street only in the case of emergency. It wouldn't be used for regular foot traffic back and forth, only for evacuation.

Mr. Dunn continued: There are sewer lines. The Department of Public Works of Newton did an investigation of the sewer main on Summit. What they found was that two lines go to the nursing home. What we concluded from that information is that there are no sewer lines from the nursing home that cross over the proposed house lot. Same with the water lines. There's two separate water line access connections that don't cross the lots. The water line does come in quite close to the existing building so we would probably need an easement to allow Valley View to maintain the exterior wall and the roof where the overhang comes near the property line. It has to be that way to accommodate both lots.

Mr. Karp asked: Can you talk about the electric and telephone lines?

Mr. Dunn replied: Yes. The electric and telephone service still needs to be investigated a little bit further. We think everything is aerial, so we would probably need the easements to do that.

Mr. Karp asked: Can you talk about the site triangle easement?

Mr. Dunn replied: On the corner of Summit Ave and High Street the Town Engineer has asked that we prepare a site triangle easement 10' back from the stop sign and 300' from Route 94. We agreed to provide that triangle easement in the metes and bounds and include it in the description of the deed.

Mr. Dunn continued: In the area of that site triangle there is an existing advertising sign for the Valley View Care Center, a patient sign. It is critical that it stay there because the nursing home is back off the main highway. So we will need an easement to keep and maintain that sign for the Valley View Care Center.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Soloway stated: You may also technically need a variance because the sign is not permitted in the zone.

Mr. Dunn stated: Our understanding is that it could be continued.

Mr. Soloway continued: I understand it's preexisting, but I'm just being technical. The sign is not permitted in this zone.

Mr. Karp asked: Can you discuss the parallelogram; what we described as the core?

Mr. Dunn replied: Sure. If you look at the key map, this is the existing tax map, it shows the appendage come off the main property and jut into the neighboring properties. That scenario would be deemed an unclear title. At this time we are not going to pursue any title on that piece of property. It has not been included in any of the calculations.

Mr. Karp asked: Can you discuss the 12' right-of-way maintenance responsibility with lot 21?

Mr. Dunn replied: To the south of the nursing home lot there is a 12' right-of-way. The deed allows the nursing home to access lot 17 and maintain their portion of that easement.

Mr. Karp asked: I understand you've reviewed Mr. Simmons and Ms. Caldwell's report and there is no issue with complying with any of the requirements?

Mr. Dunn stated: There are no issues with the requirement.

Mr. Dunn continued: If the Board has no questions at this point I'd like to run through the seepage test of the planning and the D2 variance. It should be noted that there are several set back variances here but it's assumed by the D2 variance so the proofs are the same.

Mr. Soloway asked: Would the bulk variances on the residential lot be assumed by the use variance?

Mr. Dunn replied: That's the way I understood the whole application, with the use variance.

Mr. Soloway stated: The use variance is for the nursing home lot.

Mr. Dunn replied: That's the non-conforming. I guess it depends on how the Board interprets that. I was prepared to just send the proofs with the statement in each case.

Mr. Dunn continued: In the Sica analysis there are four steps to consider, which is also outlined in the Planners report. The first is to identify the public interest at stake and clarify that there is a need for a nursing home. There are limited options for a nursing home in this area, this being one of them. It's a well-established facility since the 1960s. It is clear that it's a necessary part of your community that is not offered exactly nearby. Next is to identify any detrimental effects. By my analysis and research the main thing to consider was the easements that we discussed before. Through the easements there wouldn't be any crossing disputes or property line disputes based on utility connections. There are no physical features being proposed as far as anything newly being built or modified, so it's simply a technical lot line being added to the subdivision. What that means to me is that you are not going to disturb any neighbors since the circulation will

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

remain the same, and the parking will remain the same. So there is no detriment there. The third step is to consider any conditions that would offset these impacts. By updating the easements that we've been asked to do, I think we've satisfied that. Last of all, the fourth step, is to consider an allowance for the positive outweighs the negative of this proposal on the nursing home lot. This subdivision will clean up the finances as far as income taxes go. It won't harm the Town in anyway. As far as the single family dwelling, I'd have to check the chart to see the address.

Mr. Soloway asked: If you accept the need to do the subdivision as a beneficial thing, how would this fit in terms of the house lot in terms of the judicial hardship variance?

Mr. Dunn replied: It would fit the existing Sica criteria because of the location of the preexisting lawful structures, the unique way the lot is situated and the need to have the subdivision occur. It's the best fit based on the existing features out there and the way the lots are used.

Mr. Karp asked: The application will be made to the Sussex County Planning Board?

Mr. Dunn replied: Yes. That's all I have for the summary?

Mr. Hardmeyer asked: How many beds are in the nursing home?

Mr. Dunn answered: 28

Mr. Ricciardo asked: You were talking about the sewer system, you said there are two lines going into the nursing home. Where does the sewage from the dwelling unit go?

Mr. Dunn replied: The quick answer is we don't exactly know. What we do know is that the sewer line comes out of the back of the building, the south side of the single family home. There was recently work done here to unclog it, so we believe that it goes around the front, or the Summit side of the house to High Street.

Mr. Le Frois stated: I guess I would ask the same question about the water line.

Mr. Ricciardo stated: The water line we know more about. In regards to the sewer line, how do you intend to find out where that sewer line is and to verify that it is a separate line?

Mr. Dunn replied: I think we know enough because of the recent work that was done there.

Mr. Karp stated: We know that it comes out of the back of the house because of the recent work that was done. We know that it comes out of the back of the house and we know that it comes around, so that will be part of the cross easements, that it is serviceable whether it's on the house property or a bit of it goes onto the nursing home property.

Mr. Le Frois asked Mr. Soloway: Since this involves a D variance would our governing body members not be able to participate? Should they not even be here for the application?

Mr. Soloway replied: Correct. You can't participate.

Mr. Soloway continued: Mr. Dunn did flag it. Under the case law, when you take a lawful existing nonconforming use and you reduce the area in which it can be conducted it is deemed to be

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

an intensification or an expansion of a preexisting nonconforming use. It doesn't expand it, but it intensifies it. It is lawful as it is now it's just the fact that you're confining it to a smaller area.

Mr. Le Frois stated: Mayor Flynn and Deputy Mayor Diglio have stepped down for remainder of this application.

Open to the public

No public steps forward, this portion closed

Mr. Soloway stated: I think there is one other variance relating to the sign. I believe there is a provision in the ordinance having a sign advertising one use on a different property.

Ms. Caldwell stated: I think there might be a site plan waiver

Mr. Dunn replied: I want to testify about the importance of the sign to identify the existing use that goes along hand-in-hand with the safety of the motoring public in identifying where their destination is. Therefore, I think it's a benefit for the Town to leave the sign in place. It doesn't impede any sight distance, It's high enough that you can see underneath it and It's an important part of their operation.

Mr. Soloway stated: It is a design waiver rather than a variance which is a lesser burden of proof.

Ms. Caldwell reviewed her report dated July 9, 2015: I would ask for a little more testimony in identifying the public interest from the standpoint of the subdivision. Does it assist the nursing home in its operations, do they receive assistance financially, or is there some purpose behind the subdivision that furthers that part of the criteria?

Mr. Dunn replied: Do you mean the public interest at stake as it relates to the Town, right?

Ms. Caldwell continued: You are talking about an inherently beneficial use, but as it exists today, the subdivision is the aspect of the application that intensifies the use. So the testimony to the public interest in creating the subdivision, does it assist the operation going forward with the nursing home. Does it help the inherently beneficial use to continue?

Mr. Dunn replied: It separates residential financial aspects. Keeping the finances separate is an important part of keeping the Valley View Center going strong. It's also important for insurance purposes to keep the lots separate.

Ms. Caldwell stated: Okay. That's all I had.

Mr. Simmons reviewed his report dated July 9, 2015: The applicant touched on the major concerns I had which were the various cross easements and utility easements on this application. The only other thing I would suggest we do is going back to the sanitary sewer line for the dwelling, I know that Newton's Water and Sewer licensed operator went in the basement of the dwelling and saw where it came out the back. And I know Mr. Dunn testified that on the eastern side there was a repair done. The one part of the test I would like to discuss with Joe Carr to verify this, just to go into the dwelling and do a dye test on the dwelling. Then the Water and Sewer Department can monitor the sanitary sewer manholes at the intersection of Summit and High Street and then the next manhole down on High Street to make sure that the flow comes through that section of manholes, versus the section of manholes on the Summit side.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Just to make sure it doesn't come over to Summit somehow. I would be satisfied. With perfecting all the various easements, I'm satisfied.

Mr. Le Frois asked Ms. Caldwell: Do you feel that the Sica testimony adequately addressed the four part test based on Mr. Dunn's testimony?

Ms. Caldwell replied: Yes.

Mr. Le Frois asked for questions from the Board.

Mr. Hardmeyer asked: Who would buy a house that is almost attached to a nursing home? What's going to be there?

Mr. Dunn replied: It doesn't detract from what's already there. That is one of the reasons for all the easements.

Mr. Hemschof questioned: The parking on the site is minimal. Along Summit Avenue in front of the nursing home there are several signs that say "visitor parking only". Is it by ordinance or did the nursing home just decide to put the sign up?

Ms. Little stated: The reason we put those there is that we had a lot of people including employees who were parking in the front. We have a lot of elderly people that come to visit their family members who need to park in the front.

Mr. Soloway crafted the motion: To grant minor subdivision approval and grant d2 use variance, grant all bulk variances listed on page 2 of Mr. Simmons's report of June 29, 2015, and grant a design waiver for the sign of the nursing home to be on the residential lot and perhaps another variance because the sign is technically not permitted. Compliance with the specific conditions with each and every condition set forth in Mr. Simmons June 29, 2015 report and Ms. Caldwell's July 9, 2015, report permitting a dye test on the sanitary sewer line from the dwelling house. Because it's a minor subdivision by statute they would have 190 days from the day of adoption of the resolution within which to record a deed map in conformance with the approval. There's a lot of easements here.

Mr. Simmons stated: There is one condition that wasn't listed in my report; the easement on the dwelling lot in favor of the nursing home lot for maintenance of the nursing home building because of the close proximity to the property line.

Mr. Soloway asked Mr. Dunn: Should that be a two-way easement or do you only need one way? Does the dwelling house perhaps require an easement from the nursing home for the necessary maintenance of the building?

Mr. Dunn replied: It's a little different situation. It's not going to make a difference.

Mr. Marion asked: Is the sign illuminated?

Ms. Little replied: No.

Mr. Soloway stated: The odd thing about this application, despite all of the variances that need granting, is that absolutely nothing is changing here.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Portion opened to public.

1st Public

Mike Brenzy, a realtor, commented regarding the value of the property and if anybody would ever want that property. He stated: People are going to go by the character of the building, what the building looks like, what the condition of the building is. All those type of factors are going to be valued into the price of that building. When I do a market analysis I'm going to compare variable comps to that building according to square footage. Based on that, somebody will always buy that building if it's kept in good condition. The other thing I'd like to suggest to the Board as far as an easement goes. You grant them the easement as far as the way they have the existing sewer line running now. However, if the sewer line ever has to be replaced they would abandon that easement and come out directly through the front of the property to hook into the new sewers there. If they ever had to replace the whole piping.

No more public steps forward, this portion closed.

Mr. Ricciardo made a motion to approve. Mr. Russo seconded it

Aye: Mr. Flaherty, Mr. Marion, Mr. Russo, Mr. Hardmeyer, Mr. Ricciardo, Mrs. Le Frois, Mr. Hemschof, Mr. Le Frois

Motion carried.

Board member's Flynn and Diglio rejoin.

MNA Newton Realty, LLC (#PFSP-03-2015)

Block 9.01 Lot 1

45-47 Water Street

Block 9.01 Lot 2

8 Hamilton Street

Block 9.01 Lot 3

10 Hamilton Street

David Wallace, Esq. is representing the applicant. The applicant is requesting preliminary and final site plan approval and several "C" variances for a Taco Bell Restaurant at the corner of Water Street and Hamilton Street.

Sworn in:

George Gloede of G. Gloede & Associates, and Ms. Mittal Patel, manager of MNA Realty, LLC

Mr. Gloede gave his credentials as an Engineer with current license and the Board accepted them.

Mr. Wallace confirmed that Ms. Patel is the manager of MNA Realty LLC, and is under contract to purchase a number of properties in the Town of Newton along Hamilton Street known as 64 Water, 10 Hamilton and 8 Hamilton. Those properties currently represent vacant lots and a single family home. Also under contract to purchase is the property across the street known as the County Seat restaurant at 47 Water Street. Mr. Wallace asked Ms. Patel the intended use of these properties?

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Ms. Patel replied: We are going to build a Taco Bell on Water Street and Hamilton Street, knocking down a house behind the empty lot. It has to be purchased to expand the lot for sufficient parking.

Mr. Wallace questioned: The terms of the contract currently calls for the discontinuation of certain uses at the County Seat restaurant. The County Seat has apartments above it. The owner will continue the leases of the apartments and it be intended that the restaurant operations would cease. Is that correct?

Ms. Patel replied: Yes.

Mr. Wallace questioned: Is the parking for the County Seat property currently owned by the lots you intend to purchase? That would be for the 8 apartments and for the restaurant? But you don't intend on needing the parking for the restaurant going forward?

Ms. Patel replied: Yes.

Mr. Wallace questioned: In the future do you anticipate using the first floor of that space for retail and once you make the determination of what the retail use will be you will make an application to the Board for it to be fully permitted including parking?

Ms. Patel replied: Yes.

Mr. Wallace questioned: Currently there will be some parking for the County Seat use available at your lot but the full extent will have to be in the later application when the change of use is made. Are there four spaces on site at the County Seat currently?

Ms. Patel replied: Yes.

Mr. Wallace presented Exhibit A1, dated 7/15/2015, Colorized Taco Bell, to the Board and questioned Ms. Patel: Is this the same design you will use for your Taco Bell?

Ms. Patel replied: Yes.

Mr. Wallace requested Ms. Patel to describe the lighting that's associated with this restaurant?

Ms. Patel stated: There are two slot walls on each side with LED lightings behind it.

Mr. Wallace questioned: The lighting shown as pictured is not sufficient to illuminate what's around it so do you have other lighting for that purpose?

Ms. Patel answered: Yes.

And the coloring is what you will use for your construction?

Ms. Patel answered: Yes.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Wallace stated: For this particular use you intend to install a drive-thru window at the rear of the premises with a microphone and speaker with volume control on the speaker. How does the volume control work?

Ms. Patel stated: The speaker adjusts according to the noise environment to eliminate the overspill of sound to adjoining properties so it won't be a nuisance.

Mr. Wallace questioned: Will there be an order board?

Ms. Patel stated: There is an order board at the speaker and a canopy over the speaker so people won't get wet when ordering in the rain or snow.

Mr. Wallace presented Exhibit A2, dated 7/15/2015, a schematic of the order board.

Mr. Wallace questioned: The order board has a section of the board which provides information, the rectangular box in black and above that is a decorative little arch with a bell. Is that typically the way your restaurants have it?

Ms. Patel replied – yes.

Mr. Wallace stated: Please describe Exhibit A3, dated 7/15/2015, the canopy.

Ms. Patel replied: It's a canopy closer to the speaker and the menu board where people order at the speaker. It's covered on the top so it protects water or snow coming into their car.

Mr. Wallace prompted Ms. Patel to describe Exhibit A4, dated 7/15/2015, Sconce Lighting.

Ms. Patel replied: These are the decorative LED lighting sconces that are going to go on the building.

Mr. Wallace presented Exhibit A5, dated 7/15/2015. Is an architect rendering that you have prepared with the dimensions of the sign?

Ms. Patel replied: Yes.

Mr. Wallace stated: This is essentially the same rendering that's been shown but with some additional building type and signage dimensions on there. We describe the signage dimensions in our Exhibit A5.

Mr. Russo stated: The application seems a bit disjointed. I think Ms. Patel should be speaking about the operations of the restaurant; hours, staff, parking, logistics. That's what she knows. She is getting uncomfortable. Mr. Gloede should be talking about the lighting and the access from Route 206 and Hamilton.

Mr. Wallace replied: There is an issue regarding the color of the building and design features. Our construction professional has got an issue and so I'm having Ms. Patel who has some knowledge of the operations fill in for him in a pinch. We want to discuss the colors, the LED lighting, the energy efficiency issues. Regarding illumination, safety lighting, parking lighting that's obviously going to go to Mr. Gloede. The other issues we have is the basic layout and where the customers will be served and again hours of operation.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Russo stated: We need to skip forward to those because I and other members of the Board are getting frustrated. Ms. Patel should really be focusing in on those things. So maybe we can get on to them.

Mr. Le Frois stated: Let's switch to a more technical presentation from Mr. Gloede.

Mr. Gloede described the plans and confirms that the exhibit is identical to the plans provided.

Mr. Gloede stated: A major portion of the site plan is what you received. This is the location plan showing that the site is located at the intersection of Hamilton and Water Streets. The number of lots is 1, 2, and 3. The total area of the project is .51 acres. It might be adjusted because after our first initial meeting with the Technical Review Committee there is actually a DOT right-of-way so that would reduce it to .50 acres. It doesn't affect our site as far as dimensions. The sheet shows the bulk requirements of the site; the setbacks and parking. Based on what we are looking at, this restaurant, Taco Bell, will have 40 seats in the restaurant. Which requires 10 parking spaces. We've also provided the apartments another 8 spaces. Plus this property is also the County Seat property which has apartments upstairs and the existing restaurant downstairs. During our initial conversations there was a discussion about the County Seat. That the restaurant is moving out and there could possibly be a liquor store put in there of approximately 1200 square feet. So I used the 1200 square feet of retail to account for the additional parking spaces; also, 8 apartments with one parking space per unit. That required us to have a total of 28 spaces. When we were first discussing this we looked at introducing the shared parking calculation. If we applied those numbers it would require 24 spaces on site and we are providing 25. If we had eliminated the shared parking calculation there are an additional 4 spaces at the County Seat that could be used for that purpose and we would still be under our required amount of parking. So with that I would like to share with you the site plan.

Mr. Gloede presenting the site plan, stated: As I have said before our site is at the corner of Hamilton and Water St. Our entrance is located on Hamilton Street. How the site will work is, as you come into the entrance there will be parking across the front of the building which is located here. There are parking areas on the back end over here. And the drive-thru will actually come through the site, come around, come back through and this is where the board will be. They will get the food and continue driving out and will wrap around through the site and exit the site. In this area on Hamilton Street from the intersection to the end of our property will be a two-way street at that location. The rest of Hamilton Street will be a one-way.

Mr. Ricciardo questioned: Is that how it is presently? I know part of Hamilton is two-way.

Mr. Gloede replied: I think it is. Yes.

Mr. Simmons stated: Part of Hamilton Street is two-way, but there is an ordinance before the Town Council to change it to two-way the entire length of the Taco Bell to eliminate additional parking in front of the residential area in front of the Taco Bell on the south side.

Mr. Gloede continued: There are 25 parking spaces shown on site, handicap spaces, menu board, and a canopy.

Mrs. Le Frois questioned: Why is the menu board at this ordering location?

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Gloede stated: You are at this location to be able to see the menu board. With fast food restaurants they give you a preview somewhere back before that so when you are sitting waiting in line you can decide your order. It is about 10 or 15 feet. It's very close. That's a standard Taco Bell layout.

Mr. Gloede continued: Regarding stacking on A6 – shows the outline of the number of cars that would be stacking when you place the order. Taco Bell's requirement is a minimum of 8 spaces. That's what they require for one at the window and seven behind waiting to go through.

Mr. Hemschof questioned: Where do the cars go if the parking lot is full?

Mr. Gloede stated: When people are coming into the site they are coming in from Hamilton where it is all open. They will be able to see if it's full.

Mr. Simmons stated: We talked about this a little bit this afternoon, if someone pulls to the right and the parking lot is full and they don't want to go through the drive-thru, we don't have a by-pass lane in this. So one suggestion, it would have to be checked with the grades to see if it would work, but just before that car entered into the drive-thru lane if we had another curb cut onto Hamilton that was angled and just permitted "turns to the right", that would be an escape exit that cars could pull back in the entrance again and know to go to the back parking lot and with a "No Left Turn" sign.

Mr. Le Frois questioned: Would that violate any kind of design criteria for minimum distance from an intersection for your first driveway?

Mr. Simmons stated: The key thing is it should be for "Right Turn Only". You wouldn't want vehicles to go out there and try and make a quick left, they wouldn't have much of a stacking distance. But if it is curved and angled to the right and properly signed from the Hamilton Street side, with "Do Not Enter", "Exit Right Turn Only", "No Left Turns", then that gives them the escape route they need. It would be constructed as a curb cut, just before they committed to the drive-thru.

Mr. Gloede stated: That is a good point. It would probably be equivalent to where the second parking space is so somebody can make that turn. It would also take the flow off of the main entrance. People parking on the front if they are not going back to Water Street. It might take some of the congestion out of that entrance/exit. If they want to make a right and go up they can.

Mr. Le Frois stated: Speaking about not having a by-pass lane, does that impact fire truck access and anything like that as far as circulation goes?

Mr. Wallacee replied: It shouldn't have any problem because their site is really small. Any firefighting on sites similar to this the firetruck would not want to get between a fire and a high rise apartment building.

M. Gloede stated: Corporate doesn't like to see by-pass lanes. They want you to place an order. We will put a sign at the entrance saying drive-thru only to make sure everybody is aware that once you go in you are committed.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Flaherty questioned: On the Hamilton Street side you've got two-way traffic in the parking area. Is the 24' sufficient for a full-size car to back out and turn around without hitting somebody stacked in the drive-thru line?

Mr. Gloede stated: Yes. Twenty-four feet is a standard parking width with parking on both sides of the aisle. You have plenty of room for cars to back up and pull away.

Mr. Gloede continued: We also provided in the same plans the Soil Erosion Plan, which was submitted to the Sussex County Soil Conservation District, that shows the typical disturbance, shows silt plans being used to protect the property and stabilize the construction entrance that we would utilize the curb cut.

Mr. Gloede stated: The Lighting and Landscaping Plan shows the light fixtures throughout the site. What is not shown is the small mounted lights that you saw the detail of. They will be at locations across the front of the building as well as across the drive-thru side. They will be wall-mounted sconces. This also shows our landscaping around the perimeter of the site. Because of the grade change we are proposing a retaining wall of about 4-4.5' high. We are going to put up a board-on-board fence that is 6' high in front of the retaining wall as a screen for adjoining property. We could put some low shrubs to hide the retaining wall on the residential side.

Ms. Caldwell stated: When they remove the red house there is another house adjacent to it so there is a 5' strip between the parking lot and the adjacent property. There's a retaining wall roughly in the center of that so you are going to have about 2.5' on either side.

Discussion ensued.

Mr. Soloway questioned: There are spaces along the retaining wall and that's where the apartment residents will park?

Ms. Caldwell stated: There will have to be some signage to indicate that. It will also have to address the fact that other people can park there as well.

Mr. Wallace stated: In our discussion about that because of the different hours that people would be parking here, it may not be the same kind of busy hours as the Taco Bell.

Mr. Soloway questioned: What are the hours?

Ms. Patel stated: The drive-thru is open from 10AM until 12AM

Mr. Soloway stated: It could be a busy parking time for people who are coming home around dinner time.

Mr. Wallace stated: But again we have more than enough parking based on calculations.

Mrs. Le Frois asked: Describe for me again the wall on this side facing the adjacent property.

Mr. Gloede stated: This is the adjoining residential property. The property line and our parking lot curve is 5'. Within that 5' distance we are putting a retaining wall that goes from 1' in height to 4' and then back down again.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mrs. Le Frois questioned: So will that protect the neighbors from the glare of the headlights in those spots?

Mr. Gloede stated: Maybe in the back where the wall is a little higher, but up in the front I would say no. That's the reason why I thought of the fence as potentially we could put there?

Mrs. Le Frois questioned: So what's the reason for the retaining wall as opposed to just using a fence?

Mr. Gloede stated: There are grades on the adjoining property that are higher than our site. In order to make our site work we had to cut this down. So we are actually lower than the property next door to us. That's the reason for the retaining wall.

Mr. Hardmeyer stated: That's lower then. If you have a 5' fence it may only be sticking 3' out of the ground at some point. Right?

Mr. Gloede stated: At the back end, that is correct. It goes further down here. Again, the house is here. It's probably more critical to have this in this area rather than back here anyway. So with the fence being 6' high here it could provide better screening.

Mr. Hardmeyer questioned: You say landscape on here. But what?

Mr. Wallace stated: It hasn't been determined what we'll put there yet.

Mr. Flaherty questioned: Where are you going to put the snow?

Mr. Gloede stated: Prior to this discussion and other areas where we've done a similar type of building and depending on the amount of snow it would have to be taken off site. We would contract with a plow company to come in and maintain it. They can't pile it up because we can't afford to lose space because we don't have enough room. It's something that we've dealt with before and it can be taken care of.

Mr. Flynn questioned if he had landscaping in the front of the building on Water Street?

Mr. Gloede stated: Yes. We do show landscaping; a number of trees and shrubs along the frontage. We also show a connecting sidewalk from the front of our building across our drive-thru area and out to the sidewalk on Water Street. That's another means of ingress to the site. But, yes, we do show landscaping a number of trees along our entire frontage. We don't want to put too many high trees because we don't want to cover our building. That's obviously what we're trying to show with our building signs. Also we show the pylon sign at the corner as well.

Mr. Wallace questioned: The landscaped area between Water Street and the parking area, you refer to it as a buffer; is there a planning reason why you would rather have a buffer on the other street rather than on the opposite side of the lots where you want us to put the ordering board wall? When you design the site you want aesthetic features of landscaping facing the public for a better appearance in front along with the sidewalk to make it convenient for the customer and in terms of laying out the site can you describe why it's the best way to lay it out?

Mr. Gloede stated: You don't want to push it too close to Water Street because the problem we have here is we do have a sight triangle. If we go too far over it then we start getting in too

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

much of our landscaping and that becomes part of the sight triangle and that can cause problems with the sight triangle usage. So that's kind of the cause to push the whole site this way. In order to get the number of parking spaces required this is how it ended up laying out.

Mr. Wallace questioned: Was the choice also for a somewhat smaller sized Taco Bell compared to other options to meet the requirements of the site?

Mr. Gloede stated: This building met the requirements of the site. They have a number of different prototypes. Some of them are much larger which wouldn't fit the site because you couldn't meet the requirements of setbacks. Parking becomes the control for these types of sites.

Mr. Wallace questioned: Regarding the location of parking in the front of the building, would you describe the features of this site which make that a preferable design to parking in the rear?

Mr. Gloede stated: The way Taco Bell's menus are laid out they are pretty much set in stone how they want the operations to work. They want to have the drive-thru away from the major pedestrian access from the site. So to have the building forward and the parking in the back there is just too much conflict with two drives and it just doesn't work well that way. They prefer to always have parking in front of the building which is more safety first for pedestrians.

Mr. Soloway questioned: For the record what is the front and the rear of the building?

Mr. Gloede stated: Technically the front of the building is actually facing Water Street. There are entrances in the front and on the side of the building. When you get back here these are more service entrances for the building for bringing the materials.

Mrs. Le Frois questioned: Is there an opportunity to control the supplies being dropped off to minimize the impact on traffic?

Ms. Patel stated: They are done early in the morning at 6AM, twice a week with an 18 wheeler.

Mr. Ricciardo questioned: How is he going to get in?

Ms. Patel stated: Asking as we have it in writing, we could let McClean know that we need a smaller truck for deliveries to get into our parking lot.

Mr. Ricciardo questioned if it is a refrigerated truck?

Ms. Patel stated: Yes. Partially.

Mr. Ricciardo stated: So you could use a box truck that's refrigerated to get in there?

Ms. Patel stated: Yes.

Mr. Gloede stated: That could work out because that happened in one of our other sites where they couldn't get tractor trailers in there so the restriction was going to be a 30' maximum box trailer to get into the site.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Ricciardo stated: That may become one of the requirements of the resolution that it be a box truck.

Ms. Patel stated: As long as we have it in writing we can get a smaller truck from McCleans.

Mr. Wallace stated: We did stipulate to a straight truck for the application in Franklin. We made new arrangements for that Taco Bell.

Mr. Wallace questioned: Could you describe the relation between the sight triangle and other signage on the street and other businesses?

Mr. Gloede stated: Our pylon sign is 22' from the extended curb line of Water Street. I've prepared Exhibit A7; which is an expanded view along Water Street. What this shows is the entrance to the gas station. This is the empty area here. What we did is we actually measured from our site using the telephone pole at this location and measured 95' from the telephone pole to the front corner of this side of the gas station. Their sign is approximately 18' back off the curb lot. With that in mind, when you're coming down Water Street, our sign is not going to affect the view of their sign because we're set back further. If you look coming in from here, you by-pass our sign and you can see their sign directly. We don't feel that that's even an issue as far as any visual appearance to any adjoining property signs. Again, as you come further up this way you are actually coming into the curb anyway and you have the large apartment building here. Anywhere beyond that, you can't see any of our signs.

Mr. Wallace questioned Mr. Gloede to address the setbacks and buffers and their relation between what you've designed and the general character of buildings in this vicinity in terms of setbacks, because this property will not have the minimum 2' setback that is required.

Mr. Gloede stated: The ordinance requires a front yard setback to be a maximum of 12' and a minimum of 2'. So, basically, it has to do with the layout of the building. We really can't push this building to be 12' off the property line because then the site doesn't work with the flow of traffic and everything else. So we would ask for some relief on the setbacks, the bulk variance, for pretty much all of our setbacks. In the zone, the requirements are for a minimum and also a maximum. We meet all the minimum requirements but we can't meet the maximum because we're further back in the site than the zone requires. I have it down here that in the front yard the minimum is 21'. Our proposed is 53.71' minimum; 53.20' maximum. The side yard is 0' minimum and 24' maximum. And we're showing it 88.68 adjoining along Water Street. The rear is 3' minimum. We're showing 17.5' so we're okay there. The other variance required is that in this zone, two stories is a minimum. Our building is actually a one story building but with the section above we're using to screen our equipment we are almost at a one and a half story building in terms of the height. We are not really a two story building. But with the façade the total height of the building in the front area is 21' at the highest point. In the front area and towards the back it's 18'. There is a parapet wall that extends all the way around the building and all the equipment will be set inside there.

Mr. Wallace questioned: How do we differ in terms of height and parking?

Mr. Gloede stated: As you move further down away from the center of town and you get beyond Trinity Street and Main Street, you move away from the center core of Newton. It's a little bit of a different area. As you get further away from the center of town things do spring out a little bit further. You do have parking in the front yard. You do have buildings set back further.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

I think as far as that goes, we are adjacent to a gas station that is also one story, that's all open, that has parking in front of the building. I think, as far as the character of the area goes, we are pretty close to everything else that's going on in the area. It really kind of handles with the apartment building being right on the corner. Right after that, things do start opening up and we're right in that area.

Mrs. Le Frois questioned: Subject to approval, what is the time line for construction of the building?

Ms. Patel stated: A maximum of two months depending on the approvals.

Mr. Hardmeyer questioned: What are you going to do landscaping wise along the line between you and the apartment?

Mr. Gloede stated: We are proposing a grass strip in there. It's really kind of narrow. You can see the wall that's behind us which is a nice wall that they have there. I stopped the landscaping in that corner there. We could continue it if that is the desire.

Mr. Hardmeyer suggested arborvitaes be planted there.

Mr. Ricciardo stated: I think some kind of shrub would be easier to maintain than a 3' grass strip. I think it would never be maintained.

Mr. Soloway questioned: When does the County Seat shut down in relation to the Taco Bell?

Ms. Patel stated: As soon as we close on it. Before construction.

Mr. Ricciardo stated: You have a lot of things that your construction hinges on. Number one closing the County Seat would have to be the transfer of the liquor license. The background checks would be ABC and then coming through the Governing Body to transfer that liquor license. One would be the closing of the property. Until you close on the property you're not going to file building permits and a building permit review and all of the County review. We're not talking three months here. We're talking quite a bit of time before they start construction, I believe.

Mr. Wallace stated: The liquor license is being held in an escrow account which is a typical arrangement with a mortgage relationship. It's the liquor license correlative to a mortgage is an escrow for the holding of the license itself. So the landlord would have the means to address that fairly quickly.

Mr. Soloway asked: Where do the County Seat apartments tenants park during construction?

Mr. Gloede replied: There are four spaces currently at the County Seat.

Mr. Hemschot added: But you have to jump the curb to park there.

Mr. Ricciardo asked: You mean on the side? There are three spaces there and if you want you can jump the curb to park there.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Gloede stated: We are still trying to work out a deal about where to park during construction. That is something we are looking into and it will be resolved because obviously we have to do that.

Mr. Ricciardo stated: When County Seat closes you will have five spaces. The freezer box is going to be taken out, the walk in cooler can be taken out, the dumpster can be removed, and you've got those 3 spaces and 2 that would be one in back of the other. So you've really got five spaces behind the County Seat.

Mr. Gloede stated: We would really only have to have a couple of spaces off site for somebody else to park. Again, our construction manager who was supposed to be here has been working with that so I don't know what he's resolved yet. I can't really answer that question other than the fact that we will provide parking for the apartment use. We'll look into that to see what needs to be done.

Mr. Wallace stated: Given the size of the site it would be fairly simple to provide several spaces of either end of the construction with simple access to sidewalks and minimal risk to the public.

Mr. Gloede replied: Yes. We could do that.

Portion opened to public.

1st Public

Mike Bezny, One Bartek Lane, Wharton, NJ. I own 7-7.5 Hamilton Street. I am also a licensed real estate broker and licensed home improvement contractor and I have been doing real estate for approximately 30 years and a licensed home improvement contractor for 7 years. He asked for Exhibit A6 and went up to the plan and showed where his house is in relation to the project. Number one, are you going to cut down on the parking in front of my house? Number two, am I going to get direct headlights into my house? Number three, as far as the two-way road goes, the sign stops about here in front of my house. On the same aspect, the single lane goes up this way. As far as the street, would it be more advantageous to the neighborhood that the street goes one-way, this way, so we know the traffic will go away from the residential area?

Mr. Le Frois summarized: It sounds like your question is regarding the extent of two-way traffic, the location of the driveway and where the headlights may go, and the elimination of the parking on the far side of the street.

Mr. Bezney continued: My last question is why can't we have something that's off of Water Street come around and contain this in an outward intent on Hamilton?

Mr. Gloede answered: To answer your first question about the location of the entrance. The entrance is talked and discussed about where in terms of this location is. The first is the intersection as far as the movement into the site. As it turns out, one of the things we are talking about now is putting another driveway here. We want to keep this flowing. I understand your situation about the location of the headlights and so on coming out. Unfortunately, we don't have much of a choice in location of the driveway.

Mr. Bezney asked: Why can't you make the driveway a round-a-bout?

Mr. Ricciardo replied: It would be on the wrong side of the car.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Gloede questioned: As far as parking on Hamilton Street I'm not sure if there are any restrictions to parking. Do you know that off hand?

Mr. Simmons stated: On the southerly side for a certain distance there are existing restrictions from parking subject to any approval the Board may consider, those restrictions will probably get continued.

Mr. Bezney stated: You can't park on that street between 2AM and 4AM. There's some kind of restriction on that.

Mr. Wallace requested Mr. Gloede to describe the current use of the property. Mr. Gloede stated: Right now it's a vacant lot and the County Seat uses it for parking. Their entrance and exit is right in this location here, which is pavement and gravel.

Mr. Wallace questioned: Are restaurant patrons shining their lights towards the residential properties across the street while they make use of that lot.

Mr. Gloede replied: Yes. The lights do shine in from across the street.

Mr. Michael Bezney is sworn in. 1 Bartek Lane in NJ. He owns Reliable Pro Realty in NJ

Mr. Bezney stated: From what my tenants and I have observed when I've been up here most of the entrance and exit they come in here. They come in this driveway and they come out of this driveway. That's what we have. And this is all vacant here. It's a vacant lot that's attached to Exxon here. There was a house over here that was ripped down as you probably know. We don't get a lot of that type of thing there. It's not a real busy area where you have people constantly coming around. They park, they stay for a long while and then they leave. My question would be, wouldn't it be better if you came in through the front. It's going to be detrimental to the area here. You've got a lot of residential properties here.

Mr. Soloway crafted the question: Are you asking if this can be designed in a way that it's functional but that the cars as they leave the premises at night won't shine their headlights into your house and the other residences. Is that your question?

Mr. Bezney stated: Yes.

Mr. Gloede stated: As I stated before, we try to keep the entrance and exits as far away from the intersection as possible. We don't want to have conflicts with people on Water Street. If you have an entrance that's right here, you run into a problem with a queue of people coming into the spot. They might come around the corner and hit somebody. They are coming down this hill at a pretty good clip. I'd rather not have any kind of stacking or anybody in queue waiting to get into the site. That's why I want to have the entrance as far away as possible. That entrance also allows a lot more stacking within our own site so that we don't end up on the street and people are trying to get in and out. We provide more room and it works better for the flow. I understand the problem with headlights. Unfortunately, we really don't have another choice with this site. Again, with an entrance coming in off of Water Street, that would never happen with the DOT because of the location next to these driveways, coming around this curb, the traffic lights in both areas here, plus you've got about 4 lanes of traffic across this area coming up to the light.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Soloway questioned: So you need the State's approval?

Mr. Gloede stated: Correct. And based on past experience with them and the previous issues with driveways, they would not approve an entrance off of Water Street at this location. They would come back and tell us to come in this way.

Mrs. Diglio made a recommendation: Instead of having the driveway directly in front of the one dwelling, there's landscaping in front of the empty space right next to the dwelling. Couldn't you move the opening just down a little bit and take the landscaping in reverse?

Discussion ensued.

Mr. Gloede stated: Someone is still going to get headlights. Either way with the location someone is going to get headlights. Another reason for the driveway in this location is it's a straight shot in for loading and a straight shot in to the dumpster.

Opened portion to public. No other public stepping forward. This portion of the meeting is closed.

Mr. Le Frois stated: We would like Ms. Patel to talk about operations.

Ms. Patel stated: We will have 2 employees arrive at 6AM to prepare for breakfast. We open the doors at 7AM for breakfast and serve it until 11AM. After 11AM it is lunch time. We have about 35-40 employees throughout the week. We close at 10PM for the front door and the drive-thru is open from 10PM to 12AM. Deliveries are done early in the morning; twice a week. They will give us days when the deliveries will happen. There will be approximately 7-8 employees during the lunchtime shift and 5-6 during the dinnertime shift. The employees will be sharing the parking.

Mr. Russo questioned: What is the ratio of customers who use the parking versus those that use the drive-thru?

Ms. Patel stated: It is 75% drive-thru and 25% parking customers.

Mr. Flynn questioned: I have a question pertaining to the whole application. I understand that upon this being approved and the properties being sold that the County Seat would no longer operate and these 10 retail spaces that you're provided will be for what exactly?

Mr. Gloede stated: There's 10 spaces that are required by ordinance for the restaurant. The additional spaces, there's 8, are for the existing apartments over at County Seat.

Mr. Flynn stated: Ok. I heard that you are proposing a retail use on the first floor when the County Seat is no longer in operation. What would that be?

Ms. Patel stated: We are planning to do a liquor store depending on the approvals for the Town.

Mr. Wallace stated: At some point we will have to propose something very specifically to the Board at which point we will have to address all the parking issues and make sure that we satisfy all the requirements you have and whatever space you propose because it would need a change in use.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Le Frois questioned: Just to clarify, for this application, we should assume that the County Seat will be closed. No use whatsoever on the first floor, there will only be the 8 apartments on the first floor, and the use of that first floor is not part of this application.

Mr. Wallace replied: Yes. That's correct.

Mr. Flynn continued: There isn't going to be a full consumption liquor license that is going to be taking place at this location. She intends to put a liquor store with inadequate parking. There are only the four spaces behind the building and the ten spaces proposed at the Taco Bell which you can argue is not convenient parking for a liquor store because most people are not going to park and walk across that street which is dangerous. So you've lost the liquor license that we've been trying to get in this town for years for a retail liquor license for a store that has inadequate parking. Do we have to explain what liquor stores with inadequate parking means for the Town of Newton. The clientele that is going to frequent them is not going to be someone who wants to pick up a nice bottle of wine and bring it home. It's going to cater to foot traffic in Newton. If you want to see what this looks like go and observe in front of the Spring Street Liquor Store. You're not going to be selling nice bottles of wine or micro-brewed beer. You're going to be selling 24 oz. cans, six packs of domestics, cheap wine. This is a huge loss. We're gaining a ratable property on a vacant lot, but we're losing a restaurant that doesn't have a voice in this situation and two, the liquor licenses that we've been trying to get this entire time. It's a huge loss here.

Mr. Russo stated: Unless they are considering selling this to another establishment that wants a liquor license on the property, that's up to them as the owner.

Mr. Flynn stated: I don't want to leave that up to them.

Mr. Ricciardo stated: This application has to be based on, if the County Seat is closing and they're purchasing the liquor license their intention is to open a liquor store, but that may change. It has nothing to do with this application.

Mr. Flynn stated: It has everything to do with it. You're losing a full service restaurant that is a consumption liquor license and we know that it can't be another restaurant again because there is no parking for it.

Mr. Flaherty stated: If they decided to keep the County Seat open, you are still dealing with the same area here. This application has to stand on its own. Whether the County Seat remains open or closes doesn't really impact the worthiness of this application.

Mr. Flynn replied: I see it differently. It absolutely does. Their operation will cease to exist because of this approval. It's not going to become another restaurant.

Discussion ensued on liquor license.

Mr. Russo questioned: Does the County Seat actually own their building and the lot or is it another separate entity? Do they rent their space or are you actually negotiating with the County Seat.

Ms. Patel stated: The County Seat does not own the building or the lot.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Russo stated: My point is that the County Seat has been a valuable member of the community and they are unfortunately beholden to the activities of the landlord.

Ms. Patel replied: Even if we open up a restaurant there, the parking is going to be a problem. We are trying our best to buy the other house to provide parking for upstairs tenants and the business we are going to build. I would consider making it all residential if nothing else worked.

Mr. Flynn stated: You just reinforced my point as to why I can't look at the application separately because you're under utilizing the building which you have to purchase in order to build this site here.

Mr. Soloway stated: The future use comes here. If there's a future application for the use of the County Seat, first floor, it would have to come before this Board for a site plan and variance relief and they would have to prove the adequacy of the parking. So, I'm inclined to agree with everyone else. I don't think it directly impacts this. I think it's another application. You're already raising issues about parking space tally. The point people are trying to make is that if and when another use is proposed for that building, under the ordinance parking standards there could be parking provided on this property for that use. Whether it's the right number, whether it's appropriate to have it across a busy highway, it's for another application. Not this one.

Mr. Russo questioned Ms. Patel: What is your experience with other establishments like this?

Ms. Patel replied: We have 3 other Taco Bells in Milford, Holmesdale, and East Stroudsburg. We are opening one in Franklin, NJ which will hopefully open by the third week of August. They have been great fast food restaurants for us. They've worked better for towns and I believe they are very successful franchises.

Mr. Russo questioned: I think we will have to carry this to the next meeting with our Professionals but are the issues and questions we've brought up similar to ones brought up in Franklin? Are we just re-inventing the wheel?

Mr. Gloede stated: They are very much similar. Things like the trucks entering the site, using a smaller size truck. Honestly, a lot of the sites aren't very big. I was just recently in Union City and I saw the smallest Taco Bell I've ever seen in my life. But people are excited about it there. These restaurants are proving to work. The one we did in Franklin is the same size and configuration. A little bit different as far as the grades go. The terrain is a bit difficult there. A lot of the same type of questions come up.

Mr. Russo questioned: Is there a rule of thumb with customer volume? The number of cars and number of people that want to use the drive-thru. Can you give us a sense of how busy you will be? What is the scope?

Ms. Patel stated: It varies from location to location. I would say 5,000-7,000 customers a week. It could be 10,000. Again, it depends on location.

Mr. Russo questioned: Is the Franklin location comparable in size?

Mr. Gloede stated: It is comparable in size, but here you will have more walk-in traffic.

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

Mr. Marion questioned: If 75% of the business is drive-thru why did you choose this site?

Ms. Patel stated: We have been in this area for a very long time. This is the only site that really worked with our requirements. We were looking to buy not lease. We have been looking for 2 ½ years and this is the only one that fits in our budget.

Mr. Russo stated: I think you had conversations that your overall goal was to be in Newton proper.

Ms. Patel stated: Yes. This is closer to the Town Hall and the hospital. Everything is close and people can walk to our store.

Mr. Hardmeyer questioned: Last month we had an application from a Dunkin Donuts. Their architect did a very good job of blending the architectural style with the surroundings. I don't see that here. Is there a way you could do something here? We have a beautiful Aberlour sitting right here. This doesn't blend with it at all.

Ms. Patel stated: This comes from corporate. They have other styles, but this is the newest model and they have approved it. I cannot change it. Corporate has to change it.

Mr. Le Frois stated: We are past 10:30 so, is there further testimony that you were planning on?

Mr. Wallace stated: Signs in particular.

Mr. Soloway questioned: Someone indicated earlier tonight there was supposed to be another witness or two. Are we going to hear from them now that we are not going to finish tonight?

Mr. Wallace stated: I assume he will be available. He did discuss some of the issues that Ms. Patel had covered regarding the lighting, the hours of operation, those things. I think we covered things he would have addressed even temporary parking that Mr. Gloede covered. He would be available but I don't know we could hear him at this point.

Mr. Le Frois stated: I have some more questions for next meeting.

This portion of the meeting opened to public regarding operations.

1st Public

Mike Bezney questioned: Can the hours be shortened to 10PM?

Ms. Patel stated: I can't speak for corporate but it will not be allowed.

No more public stepping forward this portion of the meeting was closed.

Application will be carried to the August 19, 2015 meeting at 7PM. No further notice required.

CORRESPONDENCE - Reviewed

EXECUTIVE SESSION - None

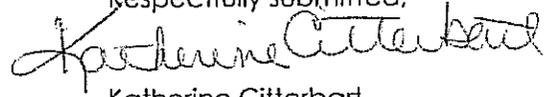
TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2015
MINUTES

PUBLIC PORTION - None stepping forward

ADJOURNMENT

Mr. Marion made motion to adjourn the meeting. Motion seconded by Mrs. Le Frois. The meeting was adjourned at 10:57 PM with a unanimous "aye" vote. The next regularly scheduled meeting will be held on August 19, 2015 in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart
Planning Board Secretary