

The regular meeting of the Newton Planning Board took place on the above date. Chairwoman McCabe read the Open Public Meeting Act and requested Mrs. Citterbart call the roll. Board Secretary Mrs. Citterbart stated there was a quorum.

FLAG SALUTE

MEMBERS PRESENT: Mr. Le Frois, Mr. Flynn, Mr. Flaherty, Mrs. Le Frois, Mrs. Diglio, Mr. Caffrey, Mr. Torre, and Mrs. McCabe

EXCUSED: Mr. Marion, Mr. Tharp, Mr. Russo, Mr. Hardmeyer, and Mrs. Mattingly

PROFESSIONALS PRESENT: David Soloway, Esq., Board Attorney, of Vogel, Chait, Collins & Schneider, David Simmons, Board Engineer, of Harold Pellow & Associates.

BOARD SECRETARY: Kathy Citterbart

Chairwoman McCabe read her letter of resignation. It is with deep regret that the Board accepted her letter and they wished her well.

OATH OF OFFICE: Daniel Flynn was sworn in.

Mrs. Le Frois stated: I believe it is the intention of the Town Council at their next regularly scheduled meeting to appoint the first alternate as a regular member. Mr. Caffrey is the first alternate and he has accepted. It has not been done as of yet.

REORGANIZATION FOR 2012

Mrs. Diglio made a motion to nominate Mr. Le Frois as Chairman. Mr. Flynn seconded the motion. The floor was open for discussion and then closed. Mr. Le Frois was approved by a majority "aye" vote.

AYE: Mr. Le Frois, Mr. Flynn, Mr. Flaherty, Mrs. Diglio, Mr. Caffrey, Mr. Torre.

Abstained: Mrs. Le Frois

Mr. Le Frois made a motion to nominate Mr. Marion as Vice Chairman. Mrs. Diglio seconded the motion. The floor was open for discussion and then closed. Mr. Marion was approved by a unanimous "aye" vote.

Mrs. Le Frois made a motion to nominate Katherine Citterbart as Board Secretary. Mr. Caffrey seconded the motion. The floor was open for discussion and then closed. Mrs. Citterbart was approved by a unanimous "aye" vote.

PROFESSIONAL APPOINTMENTS FOR 2012

Mrs. Le Frois made a motion to nominate David Soloway, Esq. of Vogel, Chait, Collins, & Schneider as Board Attorney for the year 2012. Mr. Flynn seconded the motion. The floor was open for discussion and then closed. Mr. David Soloway, Esq. of Vogel, Chait, Collins, & Schneider was approved as Board Attorney by a unanimous "aye" vote.

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**7:00 PM**

Mrs. Diglio made a motion to nominate Dave B. Simmons of Harold E. Pellow & Associates, Inc. as Board Engineer for the year 2012. Mr. Flaherty seconded the motion. The floor was open for discussion and then closed. Mr. Dave Simmons of Harold E. Pellow & Associates, Inc. was approved as Board Engineer by a unanimous "aye" vote.

Mrs. Le Frois made a motion to appoint Jessica Caldwell, of Harold E. Pellow & Associates, Inc. as the Board Planner for the year 2012. Mr. Caffrey seconded the motion. The floor was open for discussion and then closed. Jessica Caldwell, P.P., A.I.C.P of Harold E. Pellow & Associates, Inc. was approved as Town Planner by a unanimous "aye" vote.

Mr. Le Frois made a motion to designate the New Jersey Herald and the New Jersey Sunday Herald as the Board Newspapers of Record for the year 2012. Mr. Caffrey seconded the motion. The floor was open for discussion and then closed. The New Jersey Herald and the New Jersey Sunday Herald were approved by a unanimous "aye" vote.

**APPROVAL OF MEETING DATES FOR 2012 @ 7 PM**

January 18, 2012  
February 15, 2012  
March 21, 2012  
April 18, 2012  
May 16, 2012  
June 20, 2012  
July 18, 2012  
August 15, 2012  
September 19, 2012  
October 17, 2012  
November 21, 2012  
December 19, 2012  
January 16, 2013

Mrs. Le Frois made a motion to approve the meeting dates for 2012 at 7 PM. Mrs. Diglio seconded the motion. The meeting dates were approved by a unanimous "aye" vote.

**CONSIDERATION OF MINUTES**

December 21, 2011 Regular Meeting

Mrs. Diglio made a motion to approve the December 21, 2012 minutes with minor corrections. Mrs. Le Frois seconded the motion.

AYE: Mr. Le Frois, Mr. Flynn, Mr. Flaherty, Mrs. Le Frois, Mrs. Diglio, Mr. Torre

**HISTORIC RESOLUTIONS:**

None

RESOLUTION:

#PBV-10-2011-George M. Miller III, George's Salvage Co., Inc.  
Block 803 Lot 48.05  
10 South Park Drive

Amended Site Plan approval to erect an 1137 sq. ft. canopy to the main building.

Mr. Flaherty made a motion to approve the resolution with the correction. Mr. Flynn seconded the motion.

AYE: Mr. Le Frois, Mr. Flynn, Mr. Flaherty, Mr. Torre

#PBASP-21-21011-Thorlabs Urban Renewal, L.L.C  
Block 1104, Lot 21  
56 Sparta Avenue

Amended Preliminary and Final Site Plan approval to add a 20' x 20.5' concrete slab with a 600 gallon nitrogen tank and vaporizer unit to the west of the dumpster area.

Mr. Caffrey made a motion to approve the resolution. Mr. Torre seconded the motion.

AYE: Mr. Le Frois, Mr. Flynn, Mr. Flaherty, Mrs. Le Frois, Mrs. Diglio, Mr. Torre

NEW BUSINESS

#PBPFP-22-2011-Daniel Hayek, LLC  
Block 403 Lot 41  
1 Mill Street

Applicant requesting Preliminary and Final Site Plan approval for a building addition.

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

SWORN: Thomas Donohue of Donohue Engineering, and Daniel Hayek.

Mr. Quinn stated: The applicant is requesting a variance because the front yard setback on the Mill Street side is in violation. Aside from that, the application becomes a site plan application. There is an issue raised by Mr. Simmons in his report that perhaps a parking variance might be needed. In section 20-8.7, it provides for private parking lots on adjacent properties to satisfy the requirements of the subject property. That is what we have here. It will be permitted by ordinance.

Mr. Soloway stated: There is nothing in the ordinance that says one way or another you should count offsite parking spaces towards required parking. The better argument might be they do need a variance because the section that was cited talks about off street parking. I would recommend that as part of whatever decision you make on this application, you make a decision as to whether it even requires a variance and if it does take a vote on it. It is not clear cut enough for me to tell you what it is. It is something you need to decide yourselves.

Mrs. Le Frois stated: In previous applications there has been a legal recommendation that a formal approval or formal agreement be given by the adjacent property owner for the use of those spots to be counted.

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Mr. Soloway stated: Mr. Simmons' report recommends that be done. I would concur in that recommendation. I would think the applicant would agree if you are going to count these spaces towards the requirement, you need to demonstrate you have the right to use them.

Mr. Donohue stated: The applicant is proposing a building addition on the northerly side of the existing building. The existing building would be renovated. The first floor will be extended and there will be a basement constructed below which will include a storage area and a garage. The addition will require a variance for front yard setback of 11.21 where 30 is required. That is located on the northeast corner of the proposed building addition. The parking lot will be constructed with a circular sidewalk area, adjacent to the proposed addition. There will be two loading spaces on the westerly side to service Hayek's market and one loading space on the northeast corner which will service another use on the lower floor.

Mr. Donohue continued: The applicant is proposing to use the adjacent parking lot which is owned by the New Jersey Herald. A landscaped island will be removed and a driveway will be constructed to connect the two parking areas together. The parking lot will be reconstructed and restriped. There will be handicap spaces in the front of the building and on the northerly side. Two New Jersey Herald signs will be installed on Mill Street and a common driveway off of Route 206. The applicant along with the adjacent parking lot provides 71 parking spaces. There will be a dumpster located on the northeast corner adjacent to the existing driveway on Mill Street. Where the satellite dish was there is going to be a patio eating area installed with landscaping.

Mrs. Le Frois questioned on the satellite dish.

Mr. Quinn stated: it is being abandoned.

Mr. Donohue continued with sheet 3/6 of the Grading Plan. He addressed the slopes on the current and adjacent property. The grading condition will remain. Part of the parking lot will be constructed and the entire parking lot will be overlaid with asphalt. As per Mr. Simmons' report, he requested that the 12" pipe in diameter be increased to a 15" diameter and that will be provided.

Mr. Donohue reviewed sheet 4/6 of the Lighting Plan. There will be some new light fixtures. Some lights will be added to existing poles and some on new poles. There was a question about the power source for the light poles that are on the Herald's property. The applicant may be providing some underground wiring from his building to light those fixtures.

Mr. Le Frois questioned: I am assuming there will be appropriate agreements with the Herald that if those lights need repair, Hayek's would have the ability to send repair people to work on them without any problem from the Herald.

Mr. Donohue stated: I believe that will be in the agreement.

Mrs. Le Frois questioned 6a of Mr. Simmons' report and wanted to know if that was ironed out?

Mr. Donohue stated that he would check with the utility company to see if they could put their fixtures on the pole; if not, we will install another pole in that area.

Mr. Flynn asked: Don't you think it will be a better idea to put the light fixtures on the site plan as well as the lighting plan to indicate the location for construction purposes?

Mr. Donohue stated: Yes. We can do that.

Mr. Donohue continued with sheet 5/6 of the Landscape Plan. Mr. Donohue described the proposed plan. The plants that are indicated on this sheet are not included on the plant list. A similar quantity of the plants will be installed.

Mr. Soloway stated: I would recommend that the plant list be to the satisfaction of the Town Engineer.

Mr. Donohue described the Soil and Sediment Plan. This plan will be sent to the Sussex County Soil Conservation Service for certification and will be implemented during construction.

Mr. Le Frois asked: Do you have an agreement with the NJ Herald on how the parking lot will be maintained?

Mr. Hayek stated: We are looking for a 30 year lease. It is our parking lot to use. We are responsible for everything to snowplowing, lighting, moving, etc.

Mr. Le Frois stated: So essentially you have full responsibility.

Mr. Hayek stated: We have the insurance on it. If a customer were to trip over by the Herald, it would be our responsibility.

Mr. Soloway asked: Is it shared parking with the Herald?

Mr. Quinn stated: It is non-exclusive but they can use it. The fact of the matter is we are using those spots now.

There was discussion of whether or not the Herald would have to abandon their previous agreement.

Mr. Soloway stated: I would like a letter for the Town's file from the Herald formally abandoning that approval and acknowledging that this agreement supercedes it.

Mrs. Le Frois questioned finishes on the building.

Mr. Hayek stated: It will be brick but it may not match the existing. We would get it as close as possible. We are doing this to enhance the outside appearance.

Mr. Le Frois brought up some of the issues of Mr. Simmons' letter.

Mr. Donohue stated: I can provide more information for him to review.

Mrs. Le Frois stated: I am looking forward to this project coming to fruition. I know you and your family have done a great job of maintaining the property. Thank you for expanding your business and meeting the needs of the residents in that area.

Mr. Quinn stated: I would like to see this Board grant approval without a need for a variance.

Mr. Soloway stated: They do need a front yard setback variance but when in doubt the safer course for the applicant is to grant the other variance so that an objector doesn't have the ability to attack the approval.

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

With no public stepping forward, Mr. Le Frois closed this portion.

Mr. Soloway framed the motion which will be to grant preliminary and final site plan approval, a front yard setback variance and outlined the conditions.

**Mrs. Le Frois made a motion to approve the application. Mr. Floherty seconded the motion.**

**AYE: Mr. Le Frois, Mr. Flynn, Mr. Floherty, Mrs. Le Frois, Mrs. Diglio, Mr. Callery, Mr. Torre**

Mr. Le Frois opened this portion of meeting up to the public.

With no public stepping forward, the public portion was closed.

The Planning Board went into Executive Session at 8:30 PM. The Planning Board came out of Executive Session at 8:56 PM.

**ADJOURNMENT**

Mrs. Le Frois made a motion to adjourn the meeting. Mrs. Diglio seconded the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 8:57 PM. The next regularly scheduled meeting will be held on February 15, 2012, at 7:00 PM in the Council Chambers of the Municipal Building.

Respectfully submitted,

Katherine Citterbarl  
Planning Board Secretary