

Planning Board Meeting
Regular Meeting of September 23, 2009 at 7:00 pm

The regular meeting of the Planning Board took place on the above date. Vice Chairman White read the Open Public Meeting Act and requested Mrs. Citterbart called the roll. Board Secretary Citterbart stated there was a quorum.

Vice Chairman White took the place of Chairwoman McCabe.

Members Present: Mr. Caffrey, Mr. Elvidge, Mr. Flaherty, Mrs. Fowler, Mr. Russo, Mr. Vandyk, Mr. White

EXCUSED: Mr. Ricciardo, Chairwoman McCabe

ALSO PRESENT: Mr. David Soloway, Esq., of Vogel, Chait, Collins and Schneider, Cory Stoner, Board Engineer, Harold Pellow & Associates, David Simmons, Board Engineer, Harold Pellow & Associates, Debra Millikin, Deputy Town Manager, Kathy Citterbart, Planning Board Secretary.

FLAG SALUTE

CONSIDERATION OF MINUTES

August 6, 2009

Mr. Vandyk made a motion to approve the August 6, 2009 minutes. Mr. Flaherty second the motion.

AYE: Mr. Caffrey, Mr. Elvidge, Mr. Flaherty, Mrs. Fowler, Mr. Vandyk

HISTORIC RESOLUTIONS

#2009-08 – Katsoudas & Tsekouras

Property Location: 85-87 Main Street

Requested to rebuild two sets of front stairs and adding new balusters on stair hand rail.

Mr. Elvidge made a motion to approve to rebuild two sets of front stairs and adding new balusters on stair hand rail. Mr. Russo second the motion.

AYE: Mr. Elvidge, Mr. Flaherty, Mrs. Fowler, Mr. Russo, Mr. Vandyk, Mr. White, Mr. Caffrey

#2009-04 – Richard S. Wahlers/Electronics Service Unlimited.

Property Location: 200 Spring Street

Unlit L.E.D. sign approval for store front.

Mr. Elvidge made a motion to approve the unlit LED sign. Mrs. Fowler second the motion.

AYE: Mr. Elvidge, Mr. Flaherty, Mrs. Fowler, Mr. Russo, Mr. Vandyk, Mr. White, Mr. Caffrey

RESOLUTIONS

#PB-06-09 - Newton Inn, LLC

Property Location: 8 North Park Drive

Amendment to Site Plan Approval.

Mr. Elvidge made a motion to approve the amendment to site plan approval. Mr. Flaherty second the motion.

AYE: Mr. Elvidge, Mr. Flaherty, Mrs. Fowler, Mr. Vandyk

Happy Wok – Discussion on putting on new roof.

ORDINANCE

#2009-22 – Ordinance Establishing Regulations for Wind and Solar Energy Systems

Mr. Flaherty stated: I have an issue with Page 7, #2, under b we have the minimum set back for a small tower mounted. We have the distance to the property line should be 100 percent of the height including the blades. That is for the lots between 1 and 3 acres. Then for lots larger than three acres they want 200 percent. I think they should be consistent and have 100 percent which would give greater latitude to the property owner as to where they could put it. If on 1 to 3 acres 100 percent of the height is adequate I would think anything beyond 3 acres that it would also. It will give the property owner more flexibility. Mr. Elvidge questioned: One hundred percent from the property line? Mr. Flaherty stated: It says the setback from all property lines a distance equal to 100 percent of the height of the structure including the blade. On larger than 3 acres it is 200 percent. Mr. Elvidge stated: That is still behind the primary structure. Mr. Flaherty stated: That is not addressed in this section. Mr. Elvidge stated: That makes sense because then it is still behind the structure. Mr. Flaherty stated: To me a setback is so that if it falls over it doesn't fall on anyone else's property. To me it doesn't matter if it is 1 to 3 acres or 3 acres or more the setback should be the same. Mr. Russo stated: With these wind energy turbines it doesn't do us any good to put forth an ordinance that becomes so restrictive that it defeats the whole process.

Mr. Flaherty stated: Page 8, #7. The noise emanating from any operating system shall not exceed at any time the lowest ambient sound level that is present between the hours of 9:00 pm and 9:00 am at any property line of the residential or agricultural use parcel or from any parks, schools, or churches. The next sentence says: Noise emanating from the operation of wind system shall not see at any time below ambient noise level plus five DEA between the hours of 9:00 pm and 9:00 am at any property line of a non-residential or non-agricultural use far sought. I have a problem with the first standard because by definition it is always going to exceed the lowest ambient noise level. My recommendation on that if we are satisfied that 5 decibel and 3 decibels above ambient noise level is acceptable. I think 5 is a very reasonable standard but it

should apply to everyone and not separate the residential and the non-residential. Mr. Elvidge agreed with Mr. Flaherty. Mr. Flaherty stated: I also have question on this on whether we need to address this. We require a study done over a period of time to measure the ambient noise level. Do we need to specify when it will be measured and over what period of time? The ambient noise level in the summer is different that he noise level in the winter. Mr. Simmons stated: Sometimes you run into some different situations because the ambient noise will change as a function of nearby traffic depending on the season of the year.

Mr. Flaherty stated: Page 8, #8 – How are we measuring this? Are they going to have an engineer? Mr. Simmons stated: I would think when they made a site plan application such an installation, I think the manufacturer would have to get consultants to provide as part of the data.

Mr. Flaherty stated: Under site plan requirements on Page 10. The site plan must also include the adjoining properties as well as any location used in all structures and utilities within 300 feet of the property. If you go back to d2, the permit application requirements, under #2 it states the site plan must show all property lines within 200 feet within the subject parcel as well as use of all structures. I think that should be consistent. Mrs. Millikin stated: It should be 200 feet. Mr. Soloway questioned: Mr. Simmons are you construing this as requiring of floor plans off the property or is that for certain items? Mr. Simmons questioned: For the 300 feet? Mr. Soloway stated: Yes. Mr. Simmons stated: I would think the 300 feet would be for certain items. I think it would be good to go over the 200 feet to cover the possibilities that could come up. Mr. Soloway stated: Mr. Flaherty has a good point. Mr. Flaherty stated: I would get rid of the sentence on d2. Mr. Simmons stated: I would feel better with the 300 feet.

Mr. Flaherty stated: Let's go back to Page 6, shadow flicker. The standard they have here is 30 hours per year. Daylight is approximately 4400 hours in a year. So you are talking about thousands of a percent of flicker on other buildings. Is it a reasonable standard only 30 hours over that course of time? If it is should we have it for the tower mounted structures also? You just have it in medium and it also make sense to have it on the small ones too if more than 30 hours of flicker is an issue. Mr. Simmons stated: My assumption is when they talk about this their main goal is to position the unit so they minimize that totally. As the sun and wind move throughout the season there may come a time where the unit is positioned as good as possible, but there is still a particular time in the astrological year that we may get a little flicker because of the limitations of the site. Mrs. Millikin stated: We will get some clarification of that from Ms. Caldwell. Mr. Flaherty stated: The other clarification I would like is Page 7 with the up wind turbine. From saying it has to be in an upwind turbine aren't there certain times of the year and days that there is not going to be enough wind? Mr. Simmons stated: The only experience I have myself is with discussions with the Town's Energy Consultant about various properties that the town has. When they analyzed it they looked for areas of prevailing winds. Mr. Soloway stated: Your point being every turbine will violate that standard someday. Mr. Flaherty stated: Some day at some time. We need to position it in a manner that the wind and the turbines blow hit the tower in order to avoid the thumping noise that can occur when obstructed. Just that we should have it as a reasonable standard that it should be positioned in such a way that will be prevailing winds.

Mr. Flaherty questioned: On Page 10, e, b, and 7. The engineering data concerning construction of solar panels. With the structure mounted ones and with solar panels on roof tops are we requiring that they also do the roof load calculations? Mr. Soloway stated: You would not necessarily have to have that as a site plan requirement. That is more of a permit review function.

Mr. Flaherty stated: I would like to thank Jim Hoffman and the technology students at Halsted School. I know some of the High School kids also helped. They did an excellent job.

Mr. Soloway stated: You should make a finding as to whether the proposed ordinance is inconsistent with the Master Plan. Beyond that, there are about a half of dozen suggestions on the table. Unless you think there is unity on all of it, you might have to pole the Board separately and this is from the category of recommendation or suggestion to the council. It is not going to have any force of law. I gather that the sentiment is to make the finding consistency or inconsistency with some suggestion. If you want to take a try to roll them into the same motion you can.

Mr. Soloway stated: The motion would be to make a finding that the proposed ordinance is not inconsistent with the Master Plan and to further suggest that the council look at the following issues and questions.

- Page 7 2b change 200% to 100% to be consistent
- Page 8 7 second line change lowest ambient noise to 5 dBA
- Page 10 site plan requirement 200' should be changed to 300' to be consistent
- Page 6 clarification required on 30 hours per year. Is this reasonable
- Page 4 u prevailing winds should be added as a definition
- Page 9 d 2 last sentence should be removed

Mr. Russo stated: The Planning Board might have a question about shadow flicker and they are looking to approve this Monday night. Is it the Planning Board's intention to defer to the judgment of the planner can I get a recommendation by Monday from Jessica Caldwell? The Board agreed to have clarification from Jessica Caldwell.

Mr. Soloway stated: We need some clarification from the planner and then defer to Town Council. Mrs. Millikin questioned: The only question I have is that if we don't refer to this in any section of the ordinance where would this tie into the ordinance? Mr. Soloway stated: It is under the Zoning Ordinance under Permitted Uses.

Mr. Flaherty made a motion to approve the ordinance for Wind and Solar Energy Systems. Mrs. Fowler second the motion.

AYE: Mr. Elvidge, Mr. Flaherty, Mrs. Fowler, Mr. Russo, Mr. Vandyk, Mr. White, Mr. Caffrey

Draft Ordinance of 20-21.3 Historic District Signage

Mrs. Millikin stated: You don't have to consider this ordinance this evening. The Town Council asked that a draft be revised and come to the Planning Board because there have been some questions.

Page 3- Internal Illuminated Signs – There has been questions on LED signs. Under our current Historic Ordinance it specifies neon not LED. We are bringing the definition up to today's standards.

Page 5- Adding a Wayfinding category into Historic Signage – The recommendations are for Page 7 to add a section for directional wayfinding signs.

Page 14 – Internally illuminated signs – That being added in there because that covers the definition that is in there. The definitions as well on Page 16 giving some specific design guidelines on the signs that should be prepared for the Historic District. It is to bring some clarification to some issues that have been ongoing on the Historic Board that have come to the Planning Board.

Mr. Russo stated: The people in the Historic District do not have guidance. I hope you will give this consideration so that we can give the business owners in town and residents better direction.

Mrs. Millikin stated: What will happen with this ordinance if this is the way we are going to then it will go to the Town Council, come back to the Planning Board for a recommendation, and then go back to the Town Council.

Mr. Soloway questioned: It says neon colors are not permitted. What are neon colors? Mrs. Millikin stated: Neon colors are bright pink, bright red and those types of colors that you would typically see in a neon light.

Mrs. Millikin stated: You will probably see this next month for a recommendation.

OLD BUSINESS

#PB-07-26 – Able Energy Company – Block 1301, Lot 8 – 38 Diller Avenue. Applicant proposing to replace building and resume home heating oil sales and distribution on said property. Carried to September 30, 2009 at 7:00 pm with no further notice.

#PB-07-09 – Dan & Dana Weber

Property Location: 15 Hampton Street, Block 1109, Lot

Letter of withdrawal for Preliminary & Final Site Plan Approval.

Mr. Vandyk read the letter of withdrawal. Mr. Elvidge stated: I am sorry to hear that. The Board accepted the withdrawal.

CONCEPTUAL

Robert Occhifinto

**Property Location: 42 Hicks Avenue
Block 1310, Lot 15**

Proposing to construct two commercial warehouses with loading docks, and access driveway and parking for employees along with variance relief for setbacks. Representing Dr. Ochifinto is Megan Ward, from the firm of Kelly & Ward.

**SWORN: Dr. Robert Occhinifto
Allen Campbell, Campbell Engineering**

Ms. Ward stated: This property is located in the MR Industrial Zone. The property is a little over 15 acres but it has a very odd configuration. It is in two pieces with a small strip that varies from 10 feet to 30 feet joining them. We are proposing to develop the portion of the property that is closer to Newton-Sparta Road with warehouses that are permitted uses in the zone. Mr. Allen Campbell is here from Campbell Engineering to represent the property owner. Mr. Campbell has put together a three sheet concept plan and a one page summary of the plan. We have a couple of issues that we wanted to discuss with the Board.

Mr. Campbell stated: Lot 15, Block 1510. The total is 15 acres. We have broken down the properties to Lot 15 East and Lot 15 West so that we can eliminate 7.5 acres from the dialogue and concentrate on Lot 15 West. Lot 15 East is on the top portion of the plan. This demonstrates where we have a large body of wetlands. We have received an LOI from the state and we have 150 foot petition on the wetlands portion and that has the 7.5 acres. We are not looking at the 7.5 acres and will focus on the Lot 15 West. This is Sheet 2 highlighted to emphasize the wetlands.

Mr. Campbell stated: Where the west 7-1/2 acres has wetlands constraints on the opposite side of Hicks Avenue and that part of the wetlands has a 150 foot transition area which crosses Hicks Avenue and has constraints along the frontage of the portion of land that we are looking to develop. Additionally there is a wetlands body at the east corner of that wetland has a 50 ft. transition area The highlighted green line at the bottom of this page demonstrates a transition area cuts through the property and also demonstrates by the access point where we will have to seek a transition waiver permit to construct a driveway coming in to the site. To the rear of the property there is steeper slopes going up to the Township line and backing up to properties of Andover Township. We are looking to push these warehouses back, one at 12,000 square feet and one at 600 square feet. We have to increase the setback line in a residential zone in this case 55 ft by ordinance. We are seeking 10 feet. The rear property that would be impacted is in a residential zone in Andover Township and on our own property.

Mr. Soloway questioned: Looking at your site plan, Block 111, Lot 3 is owned by the applicant. Block 111, Lot 4 is not shown on the 200 foot list. Mr. Campbell stated: That is also owned by the applicant. Mr. Soloway questioned: This applicant owns everything that adjoins in the rear? Mr. Campbell stated: Correct. That includes Lot 14 in the Town of Newton.

Mr. Campbell stated: The two proposed structures are warehouses with a 600 foot office in each which is strictly for shipping, receiving, clerical purposes, computer, etc. It is not a functioning office other than for the activities of the warehouse. The owner has numerous warehouses

throughout the County. Within these satellite warehouses that are under construction and use the necessary parking we find is very minimal. We may only have 2 employees on the warehouse and we are proposing 6 parking spaces. If there is a future change of use we will have to come back to the Board to satisfy parking for that particular use. Mr. Soloway questioned: Is there room on this plan for additional parking if there is a change in use? Mr. Campbell stated: I met with Mr. Simmons on various aspects of this application and we did explore parking for future use. If we go to the west of the 12,000 square foot building it is viable to provide an area that will take an extensive construction effort and will provide up to an additional 32 parking spaces and we will lose 2 of 6 parking spaces and have a total of 36 parking spaces.

Mr. Campbell stated: The proximity of water and sewer is not readily available so we will have well and septic facility. We will do a storm water basin. The driveway access has been reviewed and had on-site meetings with the Town Engineers. The driveway is 350 feet long and maximum grade is 10 percent and the trucks will utilize the parking on each side for the turn motions. They would pull up to the 12,000 square foot building and nose in to the 6,600 square building then back into the loading docks. Mr. Vandyk questioned: What is the main function of the warehouse? Mr. Campbell stated: A warehouse for the owner's various manufacturing. Ms. Ward stated: Packaging materials, cardboard boxes and manufacturing products.

Mr. Elvidge is having a hard time finding location on the map. Ms. Ward stated: After the houses on the right and Lot 16 is owned by the Country Club. Mr. Campbell described to Mr. Elvidge. Discussion ensued.

Mr. Vandyk questioned: Are they predicting trucks to be going into these buildings on a weekly or daily basis? Mr. Campbell stated: Some of the facilities are use by the applicant typically have six trucks per day. The trucks are the tractor trailers that are demonstrated as the WB 50. It was designed for the tractor trailers. Mr. Elvidge questioned: What type of product being warehoused? Mr. Campbell stated: The old 84 Lumber on Route 94 in Lafayette is currently being turned into a warehouse. At that location they will be shipping and receiving materials that are used for packing special cartons. The shipping location at 94 will be receiving plastic cartridges that are used for future in one of the manufacturing sense for glow molding. They basically do plastic bottles from a small cartridge. This is a location to have larger inventories available readily in the area. It is basically an overflow. The manufacturing facilities that are owned have exceeded the warehouse and manufacturing that they are in. Discussion ensued.

Mr. Elvidge questioned: Can a tractor trailer stay in the lane on the county road going down the hill? Mr. Simmons stated: One of the things Mr. Campbell can double check is to have a turning movement plan.

Mr. Simmons is concerned with the fire protection issue. The existing flow conditions may not be sufficient. With the well system they will be using that for domestic use for employees. Depending on the size and type of materials of the structure will say what kind of fire flow they are going to have. It's one thing if we have the well for domestic sanitary facilities, but if there are plastics and they say it requires X gallons permitted for a certain pressure. Mr. Campbell stated: We will discuss the fire protection plan with the Fire Protection first before submitting a plan.

Mr. Simmons stated: We discussed with Ms. Caldwell and she came out with her mapping and this area is being proposed to be zoned differently from what it is now. One of the maps that the Town and DEP had prepared was the area was going to be part of the sewer service area. If that map is adopted I don't believe this area was in the sewer service area.

Mr. White questioned: What transect zone is this going to be? Mrs. Millikin stated: Either T-1 or T-2. Mr. White questioned: How will the town sidewalk variance apply to this? Mrs. Millikin stated: They have to request a variance for that because it is required for the site plan.

Mr. Vandyk stated: The parking should be adequate. I also would like to see some lights at the edge of the driveway. The trucks may not be pulling out in daylight. Mr. White agreed.

WAIVER OF SITE PLAN

Applicant: Xing Lin
Property Location: 71-75 Spring Street
Block 716, Lot 14, C-2 Zone
Requesting Take Out Chinese Restaurant

SWORN: Myron Betz, interpreter for applicant
Xing Lin, 57 Caldwell Avenue, Caldwell, NJ 07801

Mr. Betz stated: We requested a Site Plan Waiver for 71 Spring Street, Block 716, Lot 14 for a take-out Chinese restaurant. Days of operation will be 7 days a week, Monday thru Sunday from 10:30 am to 10:30 pm. There will be two full-time employees which will also be occupants in the apartments upstairs. For parking we have 7 meters on the street by the corner of Route 206 and Spring Street. The property is the old leather outlet. The store front is currently vacant. Mr. Lim purchased that building in May 2006. He is the owner of the building and he was trying to rent it out and has not had much luck. It is next door to Newport News and next to the County offices in the old Shelby's building. He has been in the business for 9 years as owner of the China Garden on Route 46 in Rockaway, NJ.

Mr. Soloway stated: This is before the Board for a Waiver of Site Plan and because it is a change of use. The Board should make sure it is okay on parking. There are no external alterations proposed to the building. There are no outdoor activities? Mr. Betz stated: No. Mr. Soloway questioned: Why don't you explain in terms of parking? Mr. Betz stated: There is street parking of 7 meters across the street. In the back there is a municipal parking lot. Looking at the pictures there is a four car garage under the building and those 4 parking spaces go with the building. That is with easy turn around. Mr. Soloway questioned: How many employees do you have? Mr. Betz stated: Two. Mr. Soloway questioned: How many tables? Mr. Betz stated: Four. Mr. Soloway questioned: How many seats at each table? Mr. Betz stated: Two seats per table. Mr. Soloway questioned: Is it anticipated that the business will be primarily take-out or eating at the table? Mr. Betz stated: Pick up. Mrs. Millikin questioned: Cooking will be on-site? Mr. Betz stated: Yes. Mr. Elvidge questioned: You are delivering

too, correct? Mr. Betz stated: Yes. Mr. Elvidge questioned: Will it be van or car and where will that be parked in the rear of the building? Can you get to the parking spaces from the rear of the building? Mr. Betz stated: The parking for employees and delivery is in the back. Mr. Vandyk questioned: If you park in the back how do you get to the inside of the building? Mr. Betz stated: From the inside of the building there is a door from the parking area. Mr. Betz stated: We will approach the Historic group regarding the signage. We will also go to the Town's Building Inspector and Fire Inspector. Mr. Elvidge stated: I agree with that.

Mr. Vandyk opened the meeting to the Public. With no public coming forward Mr. Vandyk closed this portion of the meeting.

Mr. Simmons stated: Perhaps the Board would consider a condition that the applicant's employees and delivery vehicles have to park in the back of the building. The other things is subject to the review of the Fire Subcode Official. There may be some striped fire zones in the back that Mr. Inga would not want to have blocked off as far as fire protection. Mr. Vandyk questioned: Is the applicant agreeable to that? Mr. Betz stated: Yes.

Mr. Vandyk made a motion to approve the Waiver of Site Plan with the conditions that the employees and delivery vehicles are to be parked in the back of the building and that the Fire Subcode Official review the parking. Mrs. Fowler second the motion.

AYE: Mr. Elvidge, Mr. Flaherty, Mrs. Fowler, Mr. Russo, Mr. Vandyk, Mr. White, Mr. Caffrey

NEW BUSINESS

#PB-07-09 – Dr. Martin Blackwell/136 Woodside, LLC

Property Location: 136 Woodside Avenue

Block 1007, Lot 1.01, C-1 Zone

Preliminary Site Plan Approval for addition and improvements

Representing the applicant is Mr. Michael Garofalo, Laddey, Clark and Ryan.

SWORN: Jason Dunn, Professional Planner and Landscape Architect, Dykstra and Associates 11 Lawrence Road, Newton, NJ

Mr. Douwe Dykstra, Project Engineer, Dykstra and Associates, Sparta, NJ

Martin Blackwell, 136 Woodside Avenue, Newton, NJ

Mr. Garofalo stated: This is application for a preliminary site plan. We are presenting it as a no variance application. One of the comments in Mr. Simmons report was about signage. As the presentation goes on we are going to ask if the applicant can have a larger sign. Presently the sign is 4x4 and he would like to go larger and I suggested going to the ordinance for the largest conforming sign. Maybe while Mr. Dunn is presenting the application someone can lend me a zoning ordinance and I will look and see what the largest conforming sign is. At the end of the application, if approved, is for a waiver of the reading of the resolution. Dr. Blackwell would like to get started with the improvements as soon as possible.

Mr. Dunn stated: The application is for a conforming use in a C-1 Zone. Dr. Blackwell currently operates a medical office we are proposing a 900 square foot addition to the existing office in the rear of the building. Currently the building footprint is over 1100 square feet. There are two stories. There is a deck that enters into the second floor. Majority of patients enter building from rear of building. The parking is a mixture of pavement and gravel. Dr. Blackwell approached the Board and they requested a Site Plan Waiver but with all the improvement they determined that we should go for the Site Plan application. Mr. Dunn submitted a color rendering of sheet 3 of 5 marked **Exhibit A-1**. The darker gray the existing building footprint and the mustard color yellow is the addition. The entrance location will stay the same. Both access points will stay the same. All the employees will be going to the back of the building for parking. There are 26 employee parking stalls and a paved parking area, one loading area, one trash enclosure. All patients will be going to the rear of the building to the doctor on the lower level. The second level will stay the same. Most of the time deliveries go to the front. Very few people use the front of the house. Part of the improvement will be a infiltration pond and piping for storm water. We are improving the driveway by raising a portion of it and adding some low walls. The maximum height at the property near the cemetery will be 3 feet and the maximum height of the wall between the proposed access drive and the building will be 3-1/2 feet. I have the architectural drawings here. What is being proposed is an extended waiting room on the lower level. On the upper level will be 200 square feet of office. There are no new employees going to be added. Mr. Soloway questioned: How many employees are there presently? Mr. Dunn stated: Approximately 3 or 4 full-time and 4 or 5 part-time. Mr. Soloway questioned: What is the maximum that are there at any one time? Mr. Dunn stated: There are one or two upstairs and three downstairs. Mr. Soloway questioned: Typically there would be no more than five employees at one time? Mr. Dunn stated: Yes. Mr. Soloway questioned: Dr. Blackwell you are the only doctor? Dr. Blackwell stated: Yes.

Mr. Simmons went through his report.

Page 2 and 3 – Zoning and parking – The applicant meets all the requirements of the zone.

Page 3, Item #4 – Circulation – Sidewalks are required along Route 206. I don't believe they have incorporated them into the plan yet. Mr. Campbell questioned: Does the Town want one isolated chunk of sidewalk in front of this building? Mr. Elvidge stated: Yes.

Item #5 – Storm Drainage. The applicant is updating the storm drainage of the whole site. Because it is being curbed they are going to collect that water inlets and run it through the infiltration basin. We had some technical comments on some of the pipe slopes and inlet configurations. I don't think you have any problem with any of those do you? Mr. Dunn stated: No.

Mr. Simmons stated: Comments 5a through 5g can be taken care of by the applicant.

Item 6 – Grading – We requested some working cross sections on the first section to create the retaining walls just to see how everything integrates together with regard to the grades of the building and the sidewalk next door. There is some guiderail proposed in that area. They will be making the slopes somewhat better on the driveway. Mr. Elvidge questioned: Is there an

embankment? Mr. Simmons stated: They are proposing to build the driveway up so that the face of the wall you would see needs guiderails so the car would not go off the wall.

Item 7 – Utilities - The building is an existing facility with water and sewer connections to the Town. Mr. Dunn can point out the last hydrant on Route 206 on the site plan. Mr. Dunn stated: The hydrant is right in front of the property. Mr. Simmons stated: I believe that is a dead end hydrant. Bristol Glen is not hooked up here. I don't know if there are going to be any building code requirements for sprinkler systems. I don't know what the fire flow of pressure is at that point. It may or may not be adequate. Mr. Dunn stated: It is a B rated building and no sprinklers are required.

Mr. Soloway questioned: Mr. Simmons, assuming the Board is okay with the application, what would you suggest as a condition relating to these two items? Mr. Simmons stated: With regard to water and sanitary sewer service is presently serving the building to verify with the Newton Water and Sewer Utility and the Town's Plumbing and Subcode official that the existing services pressures and flows are adequate to service the proposed building expansion. To verify with the Town's Fire Subcode official that sprinklers are not required for the proposed addition and that upgrades to the water system is not necessary to provide water protection for this facility. Mr. Soloway questioned: You would want written verification for that? Mr. Simmons stated: Yes. Mr. Soloway questioned: Is this acceptable to the applicant. Mr. Campbell stated: Yes, we will agree to do what is necessary for this building.

8 Lighting – We asked for a few more details. We suggested that the access and sidewalk area we need additional lighting.

#9 Signage – Mr. Garofalo stated: I am not sure where we fit. We are a building identification sign, directory sign, and office sign. I could use help from professionals. A building identification sign would be subject to Planning Board review. A directory sign would be 12 square feet.

Mr. Simmons stated: On the architectural plans the question I have just to verify the height and HVAC equipment. Is that going to be rough mounted or ground? Are there going to be any additional pad units or none at all? Mr. Garofalo stated: That has not come up in our conversations at all. We will agree to screen it.

Mr. Simmons went on with his report.

Construction details – I don't know if they will have any problems with them. Mr. Garofalo stated: We agree to supply the information on the details.

Page 6, Miscellaneous Items – The Board attorney to advise if any payments are required by this applicant. Mr. Soloway stated: No, providing the applicant gets building permit by 2013.

Item 13 – Those are various approvals the applicant would have to obtain.

Mr. Soloway questioned: Item 2b, I - You state that environmentally constrained areas including wetlands and steep slope areas. There are some steep slope areas therefore the constraint calculations and the FAR must be calculated and submitted since non-compliance would require a variance. Mr. Simmons stated: Subsequent to writing the report, I had that question raised to me by Mr. Dunn. That comment in the report came from the checklist. They did submit information from the DEP as far as present absence of wetlands transition areas. DEP said there weren't any on the property. The steep slopes and FAR there is a calculation that you can go through if you have steep slopes. If you go into the requirements for C-1, non-residential structures, it says FAR is not applicable. Mr. Soloway questioned: There is no FAR requirements? Mr. Simmons stated: No. Mrs. Millikin stated: What is the currently size for the sign? Mr. Dunn stated: The current sign size is 4x4. Mrs. Millikin stated: Under the ordinance, C-1 Zone you can get a directory with 12 square feet. The existing sign exceeds that. You would probably want to keep the existing sign. Mr. Dunn stated: Yes. Mrs. Millikin stated: The building identification sign, subject to Planning Board review, would be identifying the building. Then a highway business sign can be up to 40 square feet and is not permitted in this zone. My recommendation would be to stick with the 16 foot sign. Dr. Blackwell questioned: Can I have a sign on the wall outside the building? Mrs. Millikin stated: Yes. Dr. Blackwell questioned: How big can that be? Mrs. Millikin stated: Identification sign under the ordinance it permits up to a 20 square foot sign that can be on the building.

Mr. Garofalo stated: That is the end of my presentation. That leaves the issue of sidewalks. My client is likely to cooperate in that respect. Mr. Elvidge stated: It would be nice for the children and Bristol Glen to have a sidewalk to walk on in that area. Mr. Blackwell stated: I would think it would be a hazard for the people coming from Bristol Glen with the up and down of pavement and grass. Mr. Garofalo stated: Strictly by ordinance you are supposed to go across the entire frontage, I would ask the Board to give us relief for a small portion of one side of the driveway. Mr. Elvidge stated: That is reasonable.

Mr. Russo questioned: One of the documents indicates the HVAC says it provides separate HVAC system for the addition. We are not being specific about that issue. I think we need to be more specific on where the HVAC system is going to be. Mr. Dunn stated: There is some in the rear landscape area or maybe on the side of the new addition. Mr. Vandyk questioned: Would the applicant be disagreeable to screening or whatever is necessary? Mr. Dunn stated: We can put evergreen plants around it as long as there is enough air circulation. Mr. Vandyk stated: We can put that in the resolution. Mr. Elvidge questioned: How much of an expansion in the parking lot is there Mr. Dunn? Mr. Dunn stated: The parking lot is in a T shape. Mr. Elvidge questioned: There was a couple of parking spaces where the addition was right? Mr. Dunn stated: Yes.

Mr. Soloway stated he was confused with where the HVAC is going. Mr. Dunn stated: On the northern corner of the building is a screened from the road and pedestrians for the HVAC area. Mr. Elvidge stated: I think it is a nice improvement.

Mr. Flaherty questioned: The side of the building sidewalk that comes up to the existing building is that sidewalk going to continue up to the driveway entrance? Mr. Dunn stated: No, there is significant grading between this portion of the driveway and here. Mr. Flaherty

questioned: So they would use the entrance on the upper level bridge. Mr. Dunn stated: The deliveries and pedestrians would use that entrance. The lobby and entrance for patients is on the lower level. All the employees park in the back. Mr. Flaherty questioned: If someone were walking on the side they would have to use the bridge on the administrative area and go downstairs to the lower level? Mr. Dunn stated: If they enter on the upper level they can walk down the stairs.

Mr. Vandyk opened the meeting to the Public. With no public coming forward Mr. Vandyk closed this portion of the meeting.

Mr. Garofalo stated: I will explained to my applicant that if he does start construction he does so at his own risk and that at your next meeting or when you get to the resolution that you either approve or not approve. The applicant proceeds at his own risk. That is what we are asking for.

Mr. Soloway stated: They have also requested to waive the reading of the resolution which does not mean that the resolution is not binding and does not govern it does. It allows the applicant to apply for a building permit. Assuming they get to actually start construction before the resolution is adopted. That would be at the applicant's own risk. They would have to comply and if they did not, they would have to undo everything they did.

Mr. Garofalo stated: It is my understanding that the Town likes to grant preliminary approval, and grant final with an as-built. Mrs. Millikin stated: Yes.

Mr. Vandyk made a motion to approve preliminary site plan approval with compliance with Mr. Simmons September 17, 2009 report specifically with Item 4 to install sidewalks, excluding 5 feet past the driveway, and comply with all other conditions set forth in Section 5 in that report to Mr. Simmons' satisfaction and Section 6 to Mr. Simmons' satisfaction and Section 7 as set forth in the report which would including written confirmation that fire sprinklers will not be required and obtaining approval from the Fire Subcode Official and written confirmation that the existing lateral is adequate to serve the building and pressure and flows are adequate, Item 8 Lighting to Mr. Simmons' satisfaction, Item 9, note that 9a no changes would be proposed to the existing sign. The applicant has the right to add a conforming identification sign to the side of the building not to exceed 20 square feet, Item 10 a, Item 10b HVAC would be located to the satisfaction of Mr. Simmons near the northwest corner of the building, not visible from the road, comply with all conditions in Item 11, Item 12b, Item 13. In the event that there is any dispute between the applicant and Mr. Simmons relating to satisfaction of those conditions the dispute would come back to the Board for resolution. Mrs. Fowler second the motion.

AYE: Mr. Elvidge, Mr. Flaherty, Mrs. Fowler, Mr. Russo, Mr. Vandyk, Mr. White, Mr. Caffrey

**#PB-07-09 – Sussex Enterprises, LLC
Property Location: 65 Sparta Avenue
Block 1301, Lot 10, C-4 Zone
Preliminary & Final Site Plan Approval
Carried to October 21, 2009**

DISCUSSION

#PFSPV-4-2007- Kohl's – 11 North Park Drive, Block 303, Lot 26

Mr. Simmons stated: The Kohl's store has been operating. Recently we have issued an updated report on the status of their punch list. The Board and the Town Council had extended the deadline to get everything completed to September 30, 2009. They have some work to do with an upper island, striping with the County, and some miscellaneous work. They are getting there. One of the items that came up has to do with the cemetery. The requirement was to fence the cemetery, maintain it which they have been doing, put the gate in it which they have done. There was a requirement to have a gravel path going to the cemetery to enable anyone who wanted to get down there. I spoke with Larry Bozek, the engineer, and Mr. Martin has talked to Mr. Bozek in an effort to waive the gravel path. They say that they are mowing it and maintaining it to get someone down there for the ability to go there if they desire. They did not want to put the gravel path down there to invite anyone down there who may not belong there. It is a bonded item. There was a lot of discussion about the cemetery and the upkeep and access for someone who might want to visit. During construction there were people contacting the Town about the cemetery. I was sent out to verify that the stones were still there which I did. I did not feel I could make that call. Mr. Elvidge stated: That's why you would need a path; otherwise it is land with some monuments on it. It's almost like you don't give it the respect that it deserves as a cemetery for someone to visit. You have to make this trek to the cemetery without a path or anything. Just the fact that it is a cemetery it deserves respect for a path to have the ability to go there.

Mr. Soloway suggested: If Mr. Simmons is saying that it is a subject with sufficient interest and receiving calls from the public about it, and the applicant wants to change it, it shouldn't be done via field change. The applicant has the right to come to the Board and amend the site plan approval. If the Board tells them it is okay you might have some upset members of the public. Mr. Simmons stated: That is fine with me. Mr. Simmons stated: I will report back to Mr. Bozek and Mr. Martin that if they want to pursue it further they should apply to amend the site plan.

Mr. Simmons stated: With the Kohl's, Walgreens, and Dunkin Donuts sites, for the Kohl's store the fixture that went up along the streetscape, North Park Drive and in the parking lot they used the regular fixture because they had to light up a larger parking field. They could have done it with these types of fixtures, the trade off is that they will need so many fixtures it will look like pole city. The Dunkin Donuts and Walgreens are proposing the same fixtures. The Wachovia application was the first on in on the block. They proposed a slightly different fixture that resembles the Spring Street model. This is what is proposed right now at the Wachovia and you approved. I got a call from the engineer for Wachovia and he asked if we wanted to go with this or be consistent in the block. The Board agreed to have the lights be consistent with Kohl's,

Walgreen's and Dunkin Donuts. Based on changing it to be consistent he may need a different isolux pattern instead of eight lights there may be nine.

BANNER REQUEST

Mrs. Citterbart stated: Pizza Hut requested to put a banner up because they are between Dunkin Donuts and Wachovia and people think they are close. They are requesting to have a temporary banner there that they are open. Then can keep it up until the other stores open.

Mr. Soloway stated: Mr. Flaherty wants to hear testimony of Martorana. I went back and looked at prior transcripts and I am not comfortable to having someone that testified at a hearing then participate in the application particularly in the midst of litigation.

Mr. Russo questioned: When is scheduled date since we can't hear on September 29, 2009? We have tentative scheduled for October 8, 2009. Mr. Kelly has withdrawn on the application due to Main Street Newton. It is going back to Mr. Fiorello. I called Mr. Fiorello and no answer from him as of yet. I faxed a letter to him indicating that the Boards intention is to reschedule for October 8, 2009 at 7 p.m. and if they had a conflict let me know. Discussion ensued.

Mrs. Fowler made motion to Adjourn. Mr. Russo second the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 10:02 pm.

The next regular scheduled meeting will be October 21, 2009 at 7:00 pm in the council chambers of the Municipal Building.

Respectfully submitted,

Katherine Citterbart
Planning Board Secretary

EXHIBITS

Exhibit A-1 - Mr. Dunn submitted Sheet 3 of 5