

Planning Board Meeting
Regular Meeting October 21, 2009 at 7:00 pm

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

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

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

FLAG SALUTE

CONSIDERATION OF MINUTES

September 23, 2009

Mr. Caffrey made a motion to approve the September 23, 2009 minutes. Chairwoman McCabe second the motion.

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

HISTORIC RESOLUTIONS

#2009-0 - Yim Yuk Chau/Happy Wok
Property Location: 69-71 Spring Street
Requested to replace slate roof with simulated slate.

Mr. Ricciardo made a motion to approve Resolution #2009-0. Mr. Vandyk second the motion.

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

RESOLUTIONS

#PB-07-09-Dr. Martin Blackwell/136 Woodside, LLC
Property Location: 136 Woodside Avenue
Block 1007, Lot 2.01, C-1 Zone
Approving Preliminary Site Plan for addition and improvements

Mr. Elvidge made a motion to approve Resolution #PB-07-09. Mr. White second the motion.

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

#PB-07-26 – Able Energy Company

Block 1301, Lot 8 – 38 Diller Avenue.

Approving the replacement of building and resume home heating oil sales and distribution on said property. Carried to November 12, 2009 at 7:00 pm.

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

NAY: Mr. Ricciardo

OLD BUSINESS

#SP 08-07 Martorana Enterprises, 100 & 104 Sparta Avenue, Block 1201, Lots 5 & 5.03. Applicant is seeking approval for a site plan to allow construction of two retail buildings pursuant to a remand from the Superior Court. Carried to November 12, 2009 at 7:00 pm with no further notice.

NEW BUSINESS

Sussex Enterprises, LLC (#PB-07-09), Block 1301, Lot 10, C-4 Zone, Property Location: 65 Sparta Avenue. Applicant is requesting Preliminary & Final Site Plan Approval for a change of use from a gas station and convenience store to a convenience store and a variance from the C-4 Zone minimum front yard setback requirements. Representing the applicant is Keith Hychee, Esq., Newton, NJ.

SWORN: Ismail Alifkin, 65 Sparta Avenue, Newton, New Jersey
Catherine Mueller – Paige Engineering, Warren, New Jersey

This is preliminary and final application for a change of use. I think my client is reducing the intensity of the use of his property from a gas station and you will hear testimony that the oil tanks and pumps were removed.

Catherine Mueller, Bachelor's in Science and Environmental Engineering from Clarkson University. Registered professional engineer in the State of New Jersey for 26 years. Licence is current. The board accepted Ms. Mueller's qualifications.

Mr. Hychee questioned: Mr. Alifkin how long did you start operating? Mr. Alifkin stated: About five years. When it was a gas station I was managing the company. About a year ago the owner past away and they offered me to buy the property. Because of the problems I didn't want to be in gas business anymore, just a convenient store. After I have bought the property I want to make it look nicer. Mr. Hychee questioned: Why were the oil pumps removed? Mr. Alifkin stated: The gas station is about 40 years old and were not updated. Because of the State they had to take everything out. It will take some time to clean the whole site. Mr. Hychee questioned: I see you have a two inch think binder, is that your information on the

environmental? Mr. Aqualkin stated: Yes, from the State and the environmental company. They worked on the site. They will keep going until we get the No Further Action Letter.

Chairwoman McCabe questioned: Is this going to prohibit you from paving until they have a final clean up on the site? Mr. Aqualkin stated: No, there is no more contaminated soil. It's just the water. Mr. Hychee questioned: Isn't that why your parking lot is torn up? Mr. Aqualkin stated: Yes. They took tons of soil from the ground. The problem now is with the water. Mr. Elvidge questioned: There was a permanent pipe? Mr. Aqualkin stated: There is a map that shows where the pipes are. I paved it. They gave me a map so I know where they are. They said not to pave over the caps. There are 2 in the middle of parking and another two on the site. I have to leave them open so they can pump out the water. Mr. Ricciardo questioned: Mr. Simmons are you familiar with that process. Mr. Simmons stated: That is the procedure they will do until they get within the DEP standard for the ground work. Chairwoman McCabe questioned: Are those considered monitoring wells? Mr. Simmons stated: I didn't inspect these wells they are talking about. Normally they have monitoring wells where they take samples out to see what the latest level of contamination is. Mr. Aqualkin stated: They have been doing it for two or three weeks. They have their own schedule. Every time they do it they take a new sample. Mr. Elvidge questioned: Do you get an update? Is there an improvement? Mr. Aqualkin stated: Yes. Whatever they do they send me a copy of it. There is a copy in the packet.

Ms. Mueller stated: The applicant came to us to prepare a preliminary and final change of use site plan that he was directed to submit to the Town. In the fall he was going to improve the parking lot because of the removal of the tanks, use of the gas station and remediation of soil on site. We had prepared the plan that is before you last revised 7/13/09. This is the improvements that the applicant was going to complete in the fall prior to being instructed to coming to the Planning Board for the removal of the gas station use. What was shown on the plan was an improvement to the parking area to restore it back to the asphalt. Right now it is broken up asphalt and gravel area. We would like to pave it and give it a clean look. We have designed the front of the property in accordance with the County standards. We are going to delineate the parking area and have a dedicated handicap parking area. We are proposing one central entrance and exit. It will be complete with 6 inch curb for one entrance and then 6 inch curb with a new sidewalk and grass strip. We do have a handicap ramp. There is a U-Haul storage area in the back. There are some trucks there for rental. They are proposed to stay.

Mr. Simmons made comments. My concern was it is next to Railroad Avenue, the new Motor Vehicle Office, Nova Phase parking lot that was constructed, the vacant property the redevelopment has been working on. My concern is that will it blend in with the redevelopment committee has envisioned for this area.

Page 3 – They are proposing to pave the front half of the property. The rear of the lot is a gravel/grass area and the ordinance calls for it to be paved and curbed. The plan shows being parked on the grass. The Board has to advise the applicant which way to they prefer to go. If they want them to pave and curb or to allow them to park on the grass. Mr. Soloway stated: There is a technical variance says the minimum set back is 80 feet. The applicant did not notice last month. Technically it was a variance because they are coming in a site plan theoretically could park in the back. The next thing concerned the curbing along Sparta Avenue. I had a conversation with Nancy Holleran at the County Engineers office. My understanding was that

the County was not going to require a site plan for this site. They would require the permits for the access and any work within the County right of way. I ran it by her that if the Town Planning Board wanted some additional improvement on the inside of the site to match up with this would the County Engineers office or the Planning Department have any problem with that? My understanding was no. I looked at the site. There are a couple things that are similar to other areas just down the street in this case. In the westerly corner by the intersection of Sparta Avenue and Railroad Avenue and I am looking at that as the tire place that was put in on the corner of Sparta Avenue and Merriam Avenue, when that site was developed there was a site triangle reserved across the intersection. That is one of the requirements that I recommend here in my report and the County had that requirement recommended as well. When we looked at that site plan with that particular applicant we put a curb on the inside of the site triangle easement. I think that is important on this intersection. There is a lot of traffic coming out of there. You just had a resolution where it talked about tractor trailers from Diller Avenue might come down this intersection. Who knows if there is other redevelopment in the area that might connect with this in the future. My concern is that we preserve and put a radius on that corner and put a site triangle easement mathematically, and file it to preserve it, and put curbing there so that physically a truck can't inadvertently be parked there.

Mr. Simmons stated: We talked about the U-Haul in the back and the paving. We also talked about additional lighting. My assumption was that the Board would want to keep the theme of the streetscape lighting down through this area. I will get more details if that is the Board's desire.

Ice machine - Ms. Mueller advised me they would relocate the ice machine to another location on the site to maximize the sidewalk in that area. They do have the correct number of parking spaces.

Lighting - There is a question on lighting whether on the rear of the site if the Board would want that to remain not lit. I don't know if the applicant plans to have employees go back there and there should be security lighting back there or if the public would be directed back there if they were to rent a U-Haul to get the truck and drive it out.

Landscaping - There are two areas, one on south easterly side of Railroad Avenue and put some plantings in there and some maintenance in that area between Railroad Avenue and the applicant's property. Also to put some landscaping somewhere on the site to soften it up.

Signage Page 4 - There are a variety of signs on the property. There are a significant number of signs in the northwesterly corner. Perhaps the applicant should work with the Board to go over what signs will be allowed and what signs were previously approved so it is clear on what is permitted and what is not. Some signs may have to be relocated due to a site distance issue at the corner.

Fuel tanks - There is a dumpster shown on the left hand side. Depending what the Board and the applicant agree on as far as the paving in the rear of the property, it may be appropriate to relocate the dumpster to a less conspicuous location and put screening around it.

Site triangle easement - Curbing and right of way dedication to match the other side is what I was talking about.

Mr. Ricciardo questioned: Are you proposing sidewalks along Railroad Avenue on your property? Ms. Mueller stated: We are not. It is an embankment there.

Chairwoman McCabe stated: It is by ordinance that we require paving on the entire site. Ms. Mueller stated: We understand the location of this site dictates a redevelopment area and you want to match your downtown requirements. We are not redeveloping the site at this point. We removed a use. It is a clerical change for the documentation that there is no longer a gas station. It is our client's full intention to make this site as nice as he can at this time. We want to improve it. There are things in the letter that have been suggested by your engineer that would be a financial burden on our applicant at this time. We would like to work with the Board and propose to do a number of improvements in lieu of some of the other improvements at this time. I would like to go through the letter and going through a lot of these things if we could get a waiver on some of the requirements. We are happy to restripe the parking area and put in a loading zone. The parking spaces that shipped over we would still propose enough parking spaces per ordinance. We have one ADA spot. We are willing to pave the rear area where the U-Haul trucks will be. We would prefer not to put in curbing at this time. That would be an added expense. It would not aid in any drainage issues and the pavement would delineate where the trucks will be. The five foot sidewalk is a new sidewalk. We would like to retain that rather than rip that out to put in a six foot sidewalk. We are willing to move the ice machine so that it is a full clear five feet and not walking around objects.

Mr. Soloway questioned: On 4a recommends the sidewalk extends into the parking spaces. Is your client willing to do that? Ms. Mueller stated: Once we restripe the area the loading zone will be east side of the building the spots will be located in front of that sidewalk and it will be flushed pavement at the rear at the handicap spot. Once we shift everything down this spot at the right will align with the edge of the sidewalk. Mr. Soloway stated: You might want to locate the flooding zone in that area. Ms. Mueller stated: Rather than moving the sidewalk over to the parking space move the parking spaces to the sidewalk that is already there.

Mr. Simmons stated: In the front of the building you have the entrance door that goes in the building and an entrance to a restroom next to that. Does that door open out or in? Chairwoman McCabe stated: In. Mr. Simmons stated he was concerned about the door coming out and not being able to get around the door. Mr. Ricciardo questioned: How can that door swing in? Mr. Simmons stated: That may be something to investigate with the Town Construction official.

Mr. Alifkin stated: I have sidewalk in front of the building that is new. I had to get a permit for it the town inspector came and he told me to build five foot and now it doesn't make any sense. The Town told me to put five foot. It is brand new.

Mr. Ricciardo questioned: You going to have the loading at the far end of the property. Where does the merchandise enter the store? Is there a second door in the rear? Mr. Alifkin stated: Merchandise right now from the front because it is a convenient store. They park in front of the building. Mr. Ricciardo questioned: You sell milk and stuff like that? Mr. Alifkin stated: Yes. Mr. Ricciardo questioned: All of that is delivered through the front door? Mr. Alifkin stated: Yes. Mr. Ricciardo questioned: Is there a second door in the rear of the building? Mr. Alifkin stated: I only have the front door.

Ms. Mueller stated: Item h deals with the proposed improvement for along the front of the property. We strongly prefer to design and build the frontage as shown as curbing would inflict more costs on the applicant for a survey, additional curbing, and drainage. At this time we just want to make the frontage look nice. We understand in the future if we wanted to expand the building that we would have to comply as if it was a new site plan. Mr. Hyche questioned: What is your cost estimate to complying with Item h? Ms. Mueller stated: A topography survey could be close to \$20,000. We would have to construct 140 feet of curbing, possible inlets, opening the County road, tying into the existing structures, along with a survey and grading issues. From the rear of the parking spaces out to the existing sidewalk is over 35 feet. A normal drive isle is 24 feet. The likelihood of anybody going accidentally over the sidewalk is minimal because of the large distance. Once we are done there is going to be a sidewalk and a grassy area and only one paved delineated entrance and exit. Mr. Ricciardo stated: It is not non-existent so the potential does exist. Ms. Mueller stated: It could possibly happen. We will agree to put the curbing on the southwest corner along the site triangle because that will not impact the drainage of the site.

Mr. Ricciardo questioned: What kind of trucks make deliveries? Mr. Alifkin stated: Most of the time 14 or 17 feet truck. Mr. Ricciardo questioned: Not a tractor trailer? Mr. Alifkin stated: It was when it was a gas station, but not anymore. Mr. Ricciardo questioned: With all the room in the back, wouldn't it be advantageous to have all the deliveries go around back rather in the front. Mr. Alifkin stated: I have plenty of space. Ms. Mueller stated: If we locate the loading zone on the other side we will have the sidewalk in front of all the parking spaces once the final layout is done.

Ms. Mueller stated: Item i, the paving in the rear area. We don't show it to be paved, we are willing to pave it if we can waive the curbing in the rear. There are two existing lights in the front and one attached to the pole. We would agree to upgrade the two light poles. We would like to avoid putting in additional light poles because of the cost. It is functioning properly with the lighting currently there. Chairwoman McCabe questioned: You have no lighting in the back? Mr. Alifkin stated: I have 3 light poles. I have never had a light problem. There is a light on the building too. I can put another light on the side of the building. Chairwoman McCabe questioned: Are there any light poles in the parking lot behind your building or in the Able parking lot? Mr. Alifkin stated: No. Merriam Gateway has lights.

Ms. Mueller stated: As for the landscaping, it is my client's intention to make the site look nicer. The improvements along the frontage are going to change the whole look of the site. It is his intention to fix along Railroad Avenue. Mr. Elvidge questioned: Do you have a fence along Railroad Avenue? Mr. Alifkin stated: Yes.

Mr. Elvidge questioned: Mr. Simmons when you mentioned as far as curbing to delineate where the parking ends, how much of a water issue do you think there is there? Is there a run off problem? Mr. Simmons stated: Right now the site flows towards Sparta Avenue. You are not going to increase additional volume putting in the curb. Where the low spot falls in the curb line that is where you would wrap, where it was sheet throwing off before you would have to put an inlet in curb to collect the water to carry it into the drainage system. Mr. Alifkin stated: When we pave it there won't be that problem.

Chairwoman McCabe questioned: Mr. Simmons you are concerned about low spots. Mr. Simmons stated: Somewhere along the frontage wherever the low spot falls, I couldn't tell

because it is fairly flat there. There would be a low point in the parking lot because it is all going toward Sparta Avenue. At one of the corners the water collect. If you put a curb there it makes a little dam and that requires an inlet.

Chairwoman McCabe stated: My problem is with sheet flow onto a sidewalk in the winter. Mr. Simmons stated: If you put curb along the front it will take substantial drainage area and collect it before it gets to the sidewalk. Mr. Vandyk questioned: Mr. Alifkin stated: Just like everybody I never really have ice on the sidewalk. Mr. Elvidge stated: People traversed that sidewalk all the time. Mr. Ricciardo stated: That is what Mr. Simmons is saying that it is going to be sheet flow across the gravel over the curb and into the street. When it was paved that sheet flow occurred went past the sidewalk and into the street. Mr. Simmons stated: With the curb on the uphill side it stops the drainage before it gets to the sidewalk and into the street. Mr. Flaherty questioned: If you don't put that in will the sheet flow be as it always has in the past? Ms. Mueller stated: Yes. Chairwoman McCabe questioned: Is there an inlet on the street now? Ms. Mueller stated: There is an inlet to the east on the other side of Sparta Avenue. Mr. Simmons stated: There is some drainage on the other side of Railroad Avenue. I would have to look at the piping to see how it is. There is drainage at the Railroad Avenue/Sparta Avenue intersection. Mr. Vandyk questioned: Is the whole property pitched down toward the road? Ms. Mueller stated: Yes. Mr. Ricciardo questioned: Is that what you are proposing to do even after it is paved? Ms. Mueller stated: Correct. We are maintaining the flow. We don't have a topo survey on the lot, which would be an added expense. It is pretty clear when you go out that it all pitches out to Sparta Avenue even the rear pitches to the front.

Mr. Flaherty stated: Is this a new development? It is just trying to improve what is exists rather than leave it. I don't think it should rise to a standard. Mr. Ricciardo questioned: Should this be treated as something new or something that is being rehabilitated? My problem is that if I have to treat something as new I know I have to use the current standard. Mr. Elvidge stated: I see it as a smaller applicant making improvements.

Mr. Ricciardo stated: If you add another 2 foot landscape strip on the inside of the sidewalk and put shrubbery in there that would give an ideal delineation between the parking and the sidewalk. Ms. Mueller stated: We can do that.

Ms. Mueller stated: We would like to keep the lighting on the front as it is with the existing fixtures on the side. The one on the utility pole the applicant also pays to run. We would be willing to add some lighting in the rear to illuminate the U-Haul area. Mr. Ricciardo questioned: Would he be willing to change the two poles that are his to the same kind of poles? Mr. Alifkin stated: That is another expense I would have. I don't want to spend the money, maybe in the future.

Ms. Mueller stated: Someone from the town had come out and remove some signs. Chairwoman McCabe stated: Keep in mind the aesthetic we are looking for in that area. Ms. Mueller stated: The engineer noted a roof drain discharge onto the sidewalk. We can reroute that to the side so it does not go across the sidewalk. The dumpster is hanging out on the side of the building. We are willing to upgrade that. Mr. Ricciardo stated: You are going to have to shield it. Ms. Mueller stated: We will agree to put a fence just like what is next to the Municipal building. The site triangle easement in the right of way that is a paperwork and description and deed issue. We will agree to do. The other item is the site triangle on the left side for the green

space. We will add a green strip between the sidewalk and the pavement in the corner. Mr. Simmons recommended going with a planting strip. It could block site distance if you don't. Ms. Mueller stated: In the front left corner if a car is coming down and you look to the left there is a line of site up Sparta Avenue. In the corner there would be 15 feet of curb that would create a landscape triangle. Chairwoman McCabe stated: You don't even have to curb it. Mr. Ricciardo stated: It would also be natural irrigation for the shrubbery and plantings.

Ms. Mueller stated: The next item is curb return for Railroad Avenue for granite block curb. Right now we have it as concrete per the County. We would have to appease both the town and the County. Chairwoman McCabe questioned: does it exist now? Ms. Mueller stated: Right now along Railroad Avenue it is granite and along Sparta Avenue is concrete. Mr. Simmons stated: On the plan you are only a few feet short of the inlet just off the curb return. Usually what I have seen is that it makes a good place to take it off the inlet with the concrete and on the other side will be Belgian block that way you don't have a few feet of Belgian block mixed in there. Ms. Mueller stated: We would be willing to do that. Mr. Ricciardo questioned: Is he going to paint the exterior of the building? Change the color? Mr. Alifkin stated: It's a matter of finances. Chairwoman McCabe stated: We encourage you to use nice colors. No purple or pink.

Ms. Mueller stated: The only outstanding one is the sidewalks that we had to increase from 5 feet to 6 feet. Mr. Ishmael stated: I still have a permit.

Mr. Simmons stated: For the pavement in the area in the back by the U-Haul trucks if we made an exhibit and drew a line to see exactly how far we are talking about. I need clarification so I know what the Board wants.

Chairwoman McCabe stated: We are not issuing Preliminary before we see new plans. Mr. Ricciardo stated: Put a delineation line on there so Mr. Simmons can see where the delineation is. Ms. Mueller drew a delineation line on the plan. Chairwoman McCabe stated: Where you park the trucks have to be paved. Ms. Mueller stated: We are going from the proposed edge of pavement which aligns with the west property line 50 feet to the rear to be the limits of the paving from the left side.

Mr. Russo questioned: Where are you going to have the dumpster? Ms. Mueller stated: We will take a look at it and put it in an inconspicuous spot which will not interfere with the trucks. It is a 3 yard dumpster and the fence will be 5X5. Mr. Soloway questioned: The dumpster will be on the concrete and not on the grass? Ms. Mueller stated: Yes.

Mr. Soloway stated the conditions:

1. Expand paved area on westerly side of property another 50 feet to the rear and pavement will extend to westerly curbing to the line of the westerly edge of the building. The rest of the rear will remain grass except dumpster on concrete pad off the northwest corner and surrounded by board on board fence.
2. Items 4a,c,e,f,g of Mr. Simmons report check with building department and only if building inspector disputes applicants testimony otherwise it stays the way it is.
3. Item 4i of Mr. Simmons report, the curbing in back without curbing just paving. There is a variance for no curbing.

4. Lighting - Add one light on left side of building. On right side of building lights are not used so leave them.
5. Landscaping, installing shrubbery to satisfaction of engineer including the sidewalk, parking lot and southerly side of Railroad Avenue.
6. Paint fence in rear of property black
7. Signage to conform with ordinance
8. Items 8b of Mr. Simmons report to comply, 8c, 8d, comply with landscaped area within the site triangle.
9. Items 8e concrete curb along Sparta Avenue to the existing inlet on the southerly side of Railroad Avenue.

Mr. Soloway went on to say: The motion will be Preliminary Site Plan only to grant a variance for the requirement that there will be no curbing in the rear and a variance for the front yard setback which is a pre-existing condition.

Chairwoman McCabe opened the floor to the public. With none coming forward this portion of the meeting is closed.

Mr. White made a motion to with all conditions. Mrs. Fowler second the motion.

1. Expand paved area on westerly side of property another 50 feet to the rear and pavement will extend to westerly curbing to the line of the westerly edge of the building. The rest of the rear will remain grass except dumpster on concrete pad off the northwest corner and surrounded by board on board fence.
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7. Signage to conform with ordinance
8. Items 8b of Mr. Simmons report to comply, 8c, 8d, comply with landscaped area within the site triangle.
9. Items 8e concrete curb along Sparta Avenue to the existing inlet on the southerly side of Railroad Avenue.

AVE CARE@ NEWTON (PB#09-2009)

Block 802, Lot 37, R-3 Zone

Property Location: 85-1/2 Trinity Street

Applicant is requesting to put up an Alzheimer's Convalescent Home.

Carried to November 30, 2009 at 7:00 pm with no further notice required.

SWORN: Joe Golden, 21 Main Street, Newton, NJ Engineer and Planner
Gregory Ocdinario, 16 Ponderosa Trail, Sparta, NJ.

Mrs. Ocdivaro, 16 Ponderosa Trail, Sparta, NJ.

Mr. Golden stated: We are here today to request a C-1 variance for lot width and we have parking spaces that are 9x18 which is less than 180 square feet that the Board requires. The addition of a side emergency access is a side setback issue.

Mr. Golden stated: We have an existing multi-family dwelling on Trinity Street between Union Place and Diller Avenue. This was constructed 2 years ago. It is currently being rented and is still for sale. Mr. Ocdivario would like to purchase it. This is formerly from the Rosalia Estate and there are remnants of the old foundation. This is a 16.67 acre site. The bulk of the property is through the meadow and the wetlands. Exhibit A-1 Preliminary and Final Site Plan dated 10/21/09. Mr. Soloway questioned: Is that the same as the one submitted except colored? Mr. Golden stated: No, there is a few additions which I will address. We are in the process of applying for transitional waiver to adjust the location of the wetlands. This property is located in the T-5 Zone in the future Master Plan which is currently R-3 Zone. A convalescent home is an allowed use in this zone. We are here for a variance because the property does not have adequate width as described. It is an existing condition. The required width for convalescent homes is 200 feet and we have 119.72 feet. The gravel driveway, the parking area, a 4 car garage, the building, the sidewalks are existing. The ordinance requires .75 parking spaces per bedroom. We need approximately 14 parking spaces. Mr. Simmons has verified the number of spaces. We have 10 existing parking spaces and 4 in the existing garage. We have 2 employees. The only thing we are adding is the little parking space. As noted in the report our request is that it is sheet flow right now and will flow directly into this wetland. There is no reason for curbing to divert the water. Mrs. Fowler questioned: You said that there are only 2 employees? How many people will be staying? Mr. Golden stated: There are 17 beds in the facility. There are 2 employees per shift.

Mr. Golden stated: We are looking for the lot width and side yard which we are proposing an emergency egress from the second floor with balcony, landing and steps to go out. The landing can be moved to the other side. We would like a variance to go from 7 feet to 3.1 feet. **Exhibit A-1 Page 2 of 2 of Architectural Plan, Design Drawing of Ave Care.** The front elevation remains what it is today. The existing garage is located in the rear. What is there right now is treated as a balcony for the existing units out here. It is like a back deck that sits on top of the garage. Mr. Ocdivario is proposing a modest addition to match the existing footprint of the building. We are adding approximately 1100 plus square feet and putting this over the existing garage.

Mr. Golden stated: Exhibit A-1. It is our intention to pave rear parking area. The garage is being used for a storage garage. It will remain Mr. Ocdivario's garage and will not be part of the facility. The garage attached to the building is the functioning garage for the facility.

Exhibit A-2 dated October 2, 2009 from Golden Engineering, Engineer Site Plan— view of the existing facility. The home sits back. There is space to the left of the building. The main store traverses the rear of the lot and across Union Place and through some back yards angles across properties and goes down Trinity Street. On the right side you will see the shed located on the adjacent property and slightly encumbers on our property. The parking area is behind the building. You will not be able to see that parking area from the roadway.

Mr. Golden stated: We are going to eliminate one of the kitchen areas and convert it into additional bedroom space.

Mr. Soloway stated: You haven't talked about the emergency stairs. Mr. Golden stated: The side emergency egress is for emergency purposes only. By code we have to have it. This building will not have open access. The building will have an elevator to provide for the handicap. Mr. Ricciardo questioned: How do you get into the building? Mr. Golden stated: There is an entrance in the front and in the rear. The front entrance is the primary ingress in the building. Mr. Ricciardo questioned: Handicap? Mr. Golden stated: We are going to modify the front. One of the comments Mr. Simmons had was to bring ADA compatible. We will add that access point to the front.

Mr. Ricciardo questioned: These are residential units correct and you are converting it a 16 to 17 bed facility. You are increasing the use of water tremendously. Mr. Golden stated: Yes we are increasing the water use. Mr. Ricciardo questioned: Do you understand that applications are required to have a grey water system? Mr. Golden stated: I am not aware of that. Mr. Ricciardo stated: We are requiring that you recapture rain water on site. Mr. Golden stated: It is not a large estate type setting. Mr. Ricciardo stated: You will have to look it up for your needs for your portable use. You are going to have to re-do the plumbing up and run a separate line to every fixture. Mr. Golden stated: Whatever we need to do with the grey water recovery system we obviously need to do. Discussion ensued.

Chairwoman McCabe questioned: Are you going to have any medical staff on site? Mr. Ocdinario stated: There will be a nursing assistant and a nurse.

Chairwoman McCabe questioned: Does convalescent home fall under medical? Mr. Golden stated: My definition of convalescent home requires that you have support service regulated by state. Mr. Ocdinario stated: I have an assisted living. It has 42 beds and a health care facility with 16 beds for a total of 68 beds. Mr. Golden questioned: This use is regulated by the State licenser? Mr. Ocdinario stated: Currently by the Department of Health Senior Services. This facility will be licensed by the Department of Community Efforts. Mr. Golden stated: This is an activity regulated by the State and monitored by the State and has strict regulations monitored by the State. There is licensing and has to be maintained.

Mr. Ricciardo questioned: You service all stages of Alzheimer's patients. Mr. Ocdinario stated: Only the early stages of Alzheimer's.

Chairwoman McCabe questioned: Is this for profit or non-profit? Mr. Ocdinario stated: For profit.

Mr. Ricciardo questioned: How do they get into the 4 garages underneath? Mr. Golden stated: The driveway goes into the rear. Mr. Ricciardo questioned: Are they accessible for anybody or just for employees? Mr. Golden stated: Employees only.

Mr. Golden stated: On a typical weekday they get about 2 sets of family visitors and on the weekend it will be 4 visitors. That is based on the facilities Mr. Ocdinario has now.

Mr. Soloway stated: Why are you unable to comply with the 480 square foot parking space? Mr. Golden stated: Just an effort to minimize the impervious surface. We could make them larger. There is no face to face parking and there is an embankment so there is no concern with driving off the pavement and going down a hill. If the Board would like we can add the extra 2 feet. Chairwoman McCabe questioned: What is the area behind the parking spaces how much space to pull back? Mr. Golden stated: They have 24 feet.

Mr. Golden stated: We are proposing a board on board dumpster. We would prefer to keep the garbage and recyclables in the garage. We do have space in there. The truck will be able to access the dumpster. The plans do not have a dumpster in the plans. Chairwoman McCabe questioned: How would the trucks pick up the garbage? Mr. Golden stated: We would use curbside pick-up as you do now. Chairwoman McCabe stated: I imagine you would generate quite a bit of garbage. Mr. Golden questioned: What is the standard garbage pick up here now? Mr. Ricciardo stated: For commercial use they pay for it themselves. Mr. Golden stated: We can have it picked up by a hauler to the back of the building. Mr. Ricciardo questioned: What kind of garbage are we talking about? Mr. Golden stated: Household garbage. It is like assisted living and does not have medical waste. We believe we could put the garbage along the back of the garage or eliminate one of the parking spaces. I would prefer to eliminate one of the parking spaces so the garbage is not outside.

Chairwoman McCabe questioned: What else is going to change about the building because of this use as far as signage and lighting? Mr. Golden stated: There is a small sign proposed and will conform to all sign regulations. There is a fence around the front that is 26x46. Mr. Simmons stated: Mrs. Millikin pointed out that in this zone there is a 3 feet limit on the height of the fence. They are proposing 4 foot fence. Mr. Golden stated: The way I reviewed the ordinance is that if it is beyond the front setback and I read that as if it was in the front 25 feet it can be no larger than 4 feet. The ordinance allows up to 6 feet if it outside the setback limit. It says the setback limit not the front of the building. People cannot leave without an escort and the concern is that the visitor is ready to leave and they leave the door open. This is a secured facility.

Mr. Ricciardo questioned: Who handles the security in the facility? Mr. Golden stated: The workers. It is locked. There is a key code entry and you have to have a code to get in and out.

Chairwoman McCabe questioned: What kind of fence are you proposing? Mr. Golden stated: A white vinyl fence with posts. Mr. Simmons had in his report to add some landscaping. We will put some deer resistant type plants. I have more pictures. Mr. Golden showed the pictures to the Board. **Exhibit A-3 view of the rear of building. Exhibit A-4 Right side of building. Exhibit A-5 left side of building.**

Mr. Golden stated: The first issue is the need for the side barracks because of the need for emergency exit. The movement of the fence we did. We will provide a formal landscape plan with Mr. Simmons approval. We discussed the refuse area, add handicap signs, fix gravel, the existing garage. On your plans you can see it clear the hatched area I have which is part of our buffer averaging plan. We are giving back a little space and taking a little space in the buffer averaging transitioning waiver. Our give back area goes up to the edge of the existing sanitary easement. Mr. Simmons comment was to not have any space between the space and the transition area and we will move it back 10 feet. Mr. Soloway stated: Where is that comment?

Mr. Golden stated: Mr. Simmons report under Site Plan 4g. Mr. Soloway questioned: You are going to add 10 feet on 4g? Mr. Golden stated: Yes.

Mr. Golden stated: We have an existing LOI. We considered as being an established wetland. The wetland line has already been approved by DEP before construction of the original dwelling. This is already a potential restricted area.

Mr. Soloway stated he was confused about 4f. Mr. Golden stated: That is the garage in the back. It is a functioning garage and is not part of the facility. It is not intended to be use as part of the site. The DEP would prefer to leave it as gravel. That is where the sheet flow comes off the parking lot and goes into a transition area.

Chairwoman McCabe questioned: Mr. Simmons did you see the DEP comments? Mr. Simmons stated: I have not. We requested a copy of the separate submission application, if I could get a copy of that. I just wanted to protect the Town sewer and make sure there is no encroachment, improvements or adjustments in the transitionery in case the town has any problem with the sewer. We applied and have the gotten comments back from the DEP. We are asking for a standard transitional waiver.

Chairwoman McCabe questioned: Mr. Simmons do you have any comments you would like to clarify from your report. Mr. Simmons stated: My concern on comment 5 was there is no lighting proposed for that parking lot in the winter time. Mr. Golden stated: We are going to put motion sensor lights on the back of the building. We do not want to put free standing lights. If you would like free standing lights we will add them. It changes the character of the site. We will have the lighting back here. Mr. Ricciardo questioned: What if they are parked way in the back? We put a light there that we can turn on and off. We don't want it on all the time and not on timers. We can put in a light. I believe there are some poles on the site right now. Mr. Ricciardo stated: You will have to show luminaire patterns so the parking lot is adequately lit. Mr. Golden stated: If we do the lighting as requested we would not meet the minimum standard of the town if we have one. I would have to add a feature in the middle. Chairwoman McCabe stated: They can have low lights. Mr. Simmons stated: We don't like any higher than 20 foot lights. They might have to do 15 feet. Mr. Golden stated: We could put ballards lights or low lights. We will put a series of lights.

Mr. Simmons stated: On Item #6 the construction details, I don't think has any problems. Mr. Golden stated: We will do the gate to Mr. Simmons approval and we will provide the manufacturer sheets with the standard insulation. Mr. Simmons stated: Item #7 would be various approvals. If the fixture demand ends up necessitating the increase in size I recommend the Newton Utility Board be advised. Mr. Golden stated: Okay. We will submit our calculations to the Construction Official.

Mr. Ricciardo questioned: Has there been any consideration given to buffering the residential units since this is a residential unit? Mr. Golden stated: Yes. The area of concern would be on the side with sewer easement. We can put some landscaping. Mr. Ricciardo questioned: Will you consider a fence? Chairwoman McCabe stated: They can't put it in the right-of-way. Mr. Ricciardo stated: They can put it from the rear of the property to the sewer right-of-way and landscape the difference in the front. They could landscape the whole thing. Mr. Ricciardo stated: There has to be some separation of commercial use from the residential use by means of

fence or landscaping. Mr. Golden stated: We can do a vinyl fence near the rear of the structure, near the south side of property Block 802, Lot 33. We will put a fence from the rear of the facility to property line in the rear. On the other side the fence will be from the intersection of the easement to the rear. Mr. Ricciardo questioned: Where does the residential unit on the right side sit? How about buffering that? Mr. Golden stated: I would like to maintain it as a residence.

Mr. Ricciardo questioned: Do the residence have freedom of movement on the site? Mr. Ocdinario stated: They have free movement in the building.

Mr. Flaherty questioned: There is nothing in the rear, are the exits and basement alarmed? What kind of security is there? Mr. Ocdinario stated: All doors will be locked with a key pad. The employees are the only ones that have access to the doors. The emergency doorway will open for a fire. Mr. Golden stated: There are special parameters in the code that allow for this. If we need to present the process to your fire official we can.

Mr. Simmons stated: You may want to consider having them submit an as-built plan.

Mrs. Fowler questioned: The nurse and the nursing assistant are the only ones that will be there in case they need help washing or changing their clothes or something? Mr. Ocdinario stated: There are people coming in the morning and evening. Chairwoman McCabe questioned: Who does the cooking? Mr. Ocdinario stated: The two people. Chairwoman McCabe questioned: Who does the cleaning? Mr. Ocdinario stated: The two persons. Mrs. Ocdinario stated: The nurse is there every day and does the medication. She supervises the aides. There is one nurse and 2 aides on every shift. We have 3 employees.

Chairwoman McCabe opened the floor to the public.

Mr. Bob Zeller, owner of 79 Trinity Street, lives in Wantage. It seems to me that this is a drastic change in use. It is being approved as a facility for people that can't live on their own. Will the town approve this to be only Alzheimer's? They have multiple problems like drug addictions, etc. I am concerned about how safe the residents on the block are going to be.

Mr. Golden stated: This is a permitted use in the zone. We are not asking for relief on the type of facility. We did address them because we want the Board to be informed. We are not here to argue the use. We are asking for Site plan approval. Mr. Soloway stated: It is definitely a permitted use.

Jeremy and Jeanna Mabee, 81 Trinity Street. Mr. Mabee stated: We have two boys that hit balls down the hill to the house. I know you say it is not a security issue. Across the street and up and down the street there are children. God forbid something happens and there is a power outage and someone goes out the door and grabs a hold of my kid what do I do? I'm not saying it is a bad thing. It probably is a very good thing. I am worried about my children. Their property line when their stair guard moves into the embankment, which is a quite large embankment, the sewer system is 13 feet below my property line. It is almost flush with their driveway. The fencing is fine and blocks property but it's our children that we are concerned about. They are six and four and they don't know any better. If someone walks outside with a parent and she grabs a hold of them. What do I do to counteract what they are doing? That is one of my biggest

concerns. He owns the house on the other side of us and the people are very nice. There are probably going to be nice people there too. It's a matter of our kids, the kids in the community, when they are walking by having the parents, the ones that aren't here and didn't get the letters, how do they feel? Do they feel the same? There is only one business acupuncture and he is a nice man. Mrs. Mabee stated: There is Bristol Glen down Route 206 that is the same thing for people who need help. My grandmother was there for a while with a different condition. She was presenting Alzheimer's but now she is at home with her husband instead of in an Alzheimer's facility. We have dogs in the back. I like pets. I get out and go for a walk and my dog bites them on my property in a fenced in area. I am very concerned with my children. I am not happy with the house being next door but I do have a nice view in the back. The parking lot takes out the beautiful that they left back there. The view gets taken away. There are a lot of deer. It is an eyesore to me. It is not something that should be in our community. Up the street there is something for disabled people. I did not know that was going in there. They have to come up on our property for the fire escape. We are going to have a sign in the front yard. This is a community. The water draining off the parking lot in the back. You are saying it is going to be fine, but who says the cars are not going to be leaking oil and that is going back to the wetlands, which affects every living thing back there. The lights in the back, my bedroom is on that side and my kids are in the back. I can't open the windows at night in the summertime. You have these lights on. No one is going to sleep. So everyone is cranky while fighting and we get mad and stuff like that. You don't want to have that in the house. I've been in that building before and I believe that there were 3 bedrooms upstairs. I don't understand how? Is the inside of the building going to be altered to suite all these people. For the amount of staff that is way too many people. The security system, if the power goes out anybody can walk out the door. If somebody watches the nurse type in the keypad and remember the number. To be cooped up inside all day long that is not healthy either. The fencing in the front, I didn't see very well where it went. The garbage outside, there is bears. The neighbor had problems with the bear. Mrs. Mabee stated: This street has become a high traffic area. If somebody did get out they could easily be hurt. Even if the fence is there they can walk around it or climb over it. I have concerns on where is the neighborhood going. To have a facility like this so close to the children and set back like the one up the street for the mentally ill people. It disturbs me to know that we can do that in this part of the town. There are other locations that can be done. I understand that they want to keep it family-like. We also have Valley View by the hospital. There is another one next to the hospital. You live in Sparta now, why not find a place closer to where you live? Why not be in that same town?

Mr. Golden stated: I think we covered the garbage issue and any concerns with that. This is a 16 acre parcel. I don't have a percent coverage but it is small versus what is allowed here. In the Master Plan in the T-5 zone I went over the types of facilities proposed here. If you look at page 41 from the **Exhibit A-6 Newton Master Plan** it is in blue area. In the Master Plan all these uses including hotels, bed and breakfast, day care facilities this is intended to become the transition area from core Newton to residential Newton. It is the vision to be a commercial type zone. This is a highly regulated use. Any Meghan's Law offenders are prohibited from this facility. It does not fall with this license for this type of facility. This facility will be specifically for Alzheimer's.

Chairwoman McCabe questioned: Would a facility like this allow a violent person with Alzheimer's or are there restrictions or perimeters which certain people you can take with certain

conditions? How does that work? Mr. O stated: I have three kids. It is part of the screening process if a problem and we have right to refuse because of his medical history.

Mr. Golden stated: The ratio of the workers is a requirement of the license. It is regulated with inspections. Chairwoman McCabe questioned: How often do they do inspections? Mr. O stated: Once a year and random checking. They will check food, schedule, the people, the building and have their own inspector, and security system.

Mr. Soloway questioned: Do the residents get an exercise period out of the house? Mrs. O stated: We have a schedule for them to go out every day. In the summer time and on sunny days they go out. We have an activities director that comes in. Mr. Vandyk stated: You are contradicting yourself. When the question was asked about the patients going outside your answer was no. Now you are saying that you have an activities director take them outside. Mr. O stated: They cannot go outside the building on their own. On a sunny day they can go outside the building with an escort. Mr. Ricciardo questioned: Who goes out with them one of the nurse's aides? Mr. O stated: Yes. Mr. Ricciardo questioned: Is there a regulation on how many people can go out with a nurse's aide at one time with one person? Mr. O stated: By law there are no regulations. Mr. Ricciardo questioned: By law there is no regulations on the number of your residents that can go outside even if they are accompanied by one aide? Mr. O stated: Everybody goes outside sometime.

Mr. Ricciardo questioned: Who determines at your facility when they have reached the stage in their Alzheimer's condition when you can no longer fix the criteria at your facility? Do you have regular doctors come in and examine? Mr. O stated: On a weekly basis and the schedule of the doctor is monthly but he comes there on a weekly basis maybe seeing four or five residents in a week. If the doctor assesses them then he or she will go to a nursing home. He will write the prescription that he can no longer stay at this facility. Mr. Ricciardo questioned: who takes care of their other medical needs? What if they have a bad tooth? Does a dentist come in or you take them to see the dentist? Mr. O stated: We can ask the family members. We encourage the family members to be involved. Mr. Ricciardo questioned: What if there are no family members to take them to the dentist do you arrange for the ambulance or have one of your aides take them? Mr. O stated: We arrange it depending on their insurance.

Chairwoman McCabe questioned: How do you keep the residents in one area while they are outside? Mr. O stated: That is why we have a fence. We don't anticipate everyone going out at the same time. Mr. Ricciardo stated: The neighbors have to be protected and I would prefer to see you fence the whole rear of the property if that is where they will have access to. You will have to have some kind of control gauge so they don't go out the front. Mr. Golden stated: That is in place already. These people are not violent. Chairwoman McCabe stated: It should be fenced in for everyone's sake. Mr. Elvidge stated: We have to educate our children. There are a lot of doctors visiting and there are nurse's aides. Make the security efforts to make their neighbors comfortable about it and the doctors for the residents at the facility.

Mr. Golden stated: There has been no issues with police or the resident in the other facilities. Mr. O stated: We managed the place for 2-12 years now. The Zoning Officer is happy with us and the Fire Department is happy that we address the issues right of way. We keep fixing the building.

Mr. Russo questioned: If there is a power outage is there use of a generator? Mr. Occlinario stated: There is a battery backup to the security system. We can put the generator on the lights. Mr. Ricciardo questioned: What do you do in case of emergency? Mr. Occlinario stated: We need to provide a generator. Mr. Ricciardo questioned: where is the emergency generator going to be located? Mr. Soloway stated: That should be shown on the site plan. Chairwoman McCabe stated: The generator has to be inside and meet the noise level. Mr. Golden stated: We have a full basement and that would be where these types of things would go. Mr. Russo stated: We have a program in Morris County with a monitor in case the patients wonder off. Do you have ID's or tracking device for the residents? Mr. Occlinario stated: We have to speak to the family members if we can put that on them because it is safer.

Mr. Flaherty questioned: Is there going to be a ramp on the porch? Mr. Golden stated: Yes. Mr. Flaherty questioned: What is the problem with moving the emergency exit from the second floor to the other side. Mr. Golden stated: That side is higher than the other side. That side has the existing conduit. It a better place to put it. Mr. White stated: It would be less intrusive to put it on the other side.

Mr. Bob Zeller. Will the planning Board be approving it only as an Alzheimer's facility or do they need a variance? Mr. Soloway stated: The proposal is only for an Alzheimer's facility. If there is a change of use the site plan is required for the ordinance. There would have to be review. The Department of Licensing the reports may be public and you may want to check to see if the other facility he owns has had any problems with licensing.

Jeanna Mabee questioned: Is that the planning of the town the way we are going? It seems like it because we have another business coming in. It is a medical facility. Chairwoman McCabe stated: It is part of the Master Plan for the town. We are trying to keep a core and work our way out from there. Mrs. Mabee stated: I know there was the eminent domain thing happening could that be something here? Chairwoman McCabe stated: No. The Master Plan does not force anyone out of their home. It is just a vision for the future. Mr. Soloway stated: The zoning has changed. Everyone gets grandfathered. Since they are going to have 17 people living there, are they going to have to upgrade the transformer box there? Chairwoman McCabe stated: That will have to be determined by the building department and they will have to comply with code based on their usage and occupancy.

Mr. Golden stated: We discussed the proposed 6 foot chain link fence black vinyl, the details of generator, revise landscaping plan, garbage in garage, handicap ramp, gave LOI information and will give Mr. Simmons a copy of the comments from DEP, and grey water system and the rain water recovery, relocation of stairs.

Chairwoman McCabe closed the public portion of the meeting.

Carried to November 30, 2009 at 7:00 pm with no further notice required.

Mr. Simmons stated: I have had calls from Wachovia and Dunkin Donuts applicants. Dunkin Donuts wants to try to get done before the Christmas Holidays. They want to come in with a partial site plan. Wachovia will probably be done for their part. They want to be heard on November 30, 2009 also. Chairwoman McCabe stated: We will put the ones that don't take as much time on first.

ADJOURNMENT

Mr. Vandyk made motion to Adjourn. Mrs. Fowler second the motion. The meeting was adjourned with a unanimous "aye" vote. The meeting adjourned at 10:52 pm.

The next regular scheduled meeting will be November 30, 2009 at 7:00 pm in the council chambers of the Municipal Building.

Respectfully submitted,

A handwritten signature in cursive script that reads "Katherine Citterbart". The signature is written in black ink and is positioned below the typed name.

Katherine Citterbart
Planning Board Secretary

EXHIBITS

- Exhibit A-1 dated 10/21/09 Exhibit Preliminary & Final site Plan
- Exhibit A-2 dated 10/2/09 Golden Engineering, Engineer Site Plan
- Exhibit A-3 Picture of rear of building
- Exhibit A-4 Picture of right side of building
- Exhibit A-5 Picture of left side of building
- Exhibit A-6 Newton Master Plan

