

TOWN OF NEWTON  
PLANNING BOARD  
DECEMBER 20, 2017  
MINUTES

The regular meeting of the Newton Planning Board took place on the above date. Chairman Le Frois read the Open Public Meetings Act and requested Mrs. Citterbart to call the roll. Mrs. Citterbart stated there was a quorum.

**THE SUNSHINE STATEMENT:** Was read.

**OATH OF OFFICE:** None

**SALUTE TO THE FLAG:** Was recited.

**ROLL CALL:** Was taken

Attendance: Mr. Marion (arrived at 9:35 PM), Mr. Wink, Mrs. Vrahnos, Mr. Levante, Mr. Elvidge, Mr. Le Frois

Excused: Mr. Majewski, Mr. Flaherty, Mr. Butterfield, Mr. Russo

Absent: Mrs. Larsen

Professionals present: David H. Soloway, Esq. of Vogel, Chait, Collins & Schneider; David Simmons of Harold Pellow & Associates; Jessica Caldwell of J. Caldwell & Associates; Richard Valenti, Esq. of Morris, Downing & Sherred.

**CONSIDERATION OF MINUTES**

October 18, 2017

**A motion was made by Mr. Levante and seconded by Mr. Elvidge to approve the October 18, 2017 meeting minutes.**

**AYE: Mr. Wink, Mrs. Vrahnos, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**The motion was carried.**

**HISTORIC RESOLUTIONS**

None

**RESOLUTIONS**

Karen Ann Quinlan Charitable Foundation (#PBSP-07-2017)  
Block 22.04, Lot 11  
99 Sparta Avenue  
SD-4 Zone

The resolution granting minor site plan approval for a new electric message board sign.

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**A motion was made by Mr. Levante and seconded by Mr. Elvidge to approve the resolution.**

**AYE: Mrs. Vrahnos, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**The motion was carried.**

**OLD BUSINESS**

None

**NEW BUSINESS**

**One Summit Avenue, LLC (#ZB-10-2017)  
Block: 4.05, Lot: 21  
1 Summit Avenue**

Mr. Soloway stated: Because this application contains a d(2) variance and the two governing body members of the Board are not able to sit on that, we do not have the minimum five members needed to hear the application. We are going to have to carry this application to the January 17, 2018 meeting with no further notice.

**Christopher Ennis (#WSP-8-2017)  
Block: 5.05, Lot: 1  
44 Clinton Street**

The applicant is requesting a waiver of site plan to operate a Ninja Warrior Training facility at the site.

Sworn in: Christopher Ennis, 515 Kemah Lake Road, Branchville, NJ 07826, Wayne McCabe, Licensed Professional Planner in the State of NJ, License # 2009, license is current, 125 High Street, Newton, NJ 07860.

Mr. McCabe stated: The application you have before you is a formal request for the waiver of a submission of a full site plan. The applicant is proposing to use the building. It is the existing part of an old industrial property that dates back to the early part of the 20<sup>th</sup> century. I will not get into the history of the building in order for brevity. If you are standing in front of the VFW's main entrance and look across the street to the old mill building, Mr. Ennis is proposing to be in the corner of the building on the second floor. There will be approximately 11,000 square feet that he will be renting that will be accessed through a door that's projecting out as you see on the report. That is a staircase that leads to the second floor of his facility. The type of business that he is going to be running is a training and education facility for teaching young people ninja warrior obstacle courses. These obstacle courses will be movable in most cases. They are not like the ones on television where it's a linear unit where somebody keeps bouncing and swinging from one to another to another. This is something where the pieces of equipment can be moved around and used in concert with each other depending upon the skill attained by the people who are there. The report that you have in front of you provides the hours of operation. It addresses all the questions that are raised in the application package. In terms of the site, it is properly zoned, the T-4 zone in which public, private and local schools are permitted. This is a training and educational institution so it falls within the parameters of T-4 approved uses. The days of operation are 7 days a week. As a result of the TRC meeting, the hours were altered so

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that Monday through Friday will be 10AM to 10:30PM and Saturday and Sunday will be 10AM to 8PM. The applicant is proposing to have two full time employees. Himself and one other person. Mr. Ennis will be the primary employee there and trainer. The occupancy is initially going to be 3 to 5 students per training class that will last for one hour. The applicant is looking to increase to 5 to 10 students per training session and this would be the maximum. The existing offices are set aside for use and there are existing bathrooms for men and women. The area that will be created will be for training and audio visual units. These units will be set up with explanations of the different training exercises the students will be going through. In terms of the parking provision, on page 3 of 13 in my report it provides the breakdown of the number of parking spaces required. We are looking to have 12 spaces. We can get all 12 onsite. There is a map on page 13 which shows the parking areas available on the property. However, it is more convenient to do the four in front of the property on Clinton Street and across the street. In terms of that, there is an agreement in writing between the VFW and the applicant that I would like to distribute.

Mr. Soloway stated: This document will be marked as P-1 dated December 20, 2017. It is a two page document consisting of one page parking agreement and an attached aerial photo which I assume Mr. Ennis will explain.

Mr. Ennis stated: Yes. In the center of the picture underneath the trees, the orange box indicates 8 parking spots. It is right across the street from the entrance to my building.

Mr. McCabe stated: So we more than adequately meet the requirements. It mandates 7 and we are providing 12. Also, in regards to signage, the applicant is only planning on putting up a sign that is 3' x 5' which is dramatically less than what is permitted by the ordinance. The photographs shows the building fronts onto Clinton Street and the area will have 4 parking spaces. On page 8, it shows the entrance where the students will go. On pages 9-11, it shows the interior of the building. Specifically on page 10, it shows the door leading into the facility from the stair tower. On page 11, it shows from the opposite direction the area that will be used as a training room and educational area. The applicant is requesting this waiver based on the fact that its an existing building, an approved use, we meet all the requirements for the use and for parking. We request that the Board grant the application as we have met all the checklist criteria.

Mrs. Vhranos questioned: Will you have two classes at one time?

Mr. McCabe stated: No. Just one at a time.

Mrs. Vhranos questioned: So 10 students and two employees, that's your twelve spaces.

Mr. McCabe stated: Many of the students are not age eligible to drive.

Mr. Wink questioned: How is the unit air conditioned? The reason I ask is I see the frames on page 5 looking like four window air conditioning systems.

Mr. Ennis stated: There is no air conditioning at the moment, but I would like to get units eventually.

Mr. McCabe stated: It will be air conditioned by opening the windows.

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Mr. Le Frois questioned: Will the classes be mixed?

Mr. Ennis stated: Yes.

Mr. Le Frois questioned: Is there a need for changing rooms?

Mr. Ennis stated: No. They will use the single person restrooms.

Mr. Le Frois questioned: Is there a code for how many restrooms for the number of people, 10?

Ms. Caldwell stated: I've been through the building code and it will be fine.

Mr. Le Frois questioned: The other question I have regarding the three spaces in the front. It doesn't appear from the photo that it will be striped. Will it be?

Mr. McCabe stated: It will be broom swept out and striped.

Mr. Le Frois questioned: Is there a need for bumper blocks?

Mr. McCabe stated: I hadn't thought about that, but if you want they can be put in.

Mr. Le Frois stated: It might be a good thing to do in case somebody does hit it.

Mr. Simmons presented his report dated December 14, 2017 and stated: The applicant has addressed most of the issues. I want to mention that #8a on the last page requiring approval of the Construction Official will address some of the issues we just mentioned, and whatever mechanical systems need to be put in. One other item I would like Mr. McCabe to comment on is that I notice there is an existing light fixture on the entrance off Clinton Street which I believe they are using for access. Can you describe the lighting in the area at the proposed parking spaces?

Mr. McCabe stated: There is street lighting but if there is one that is needed we can install it.

Mr. Le Frois questioned: With the agreement with the VFW and parking across the street, what are your thoughts or concerns about not having a crosswalk there? Technically they should walk to the end of the street and use the crosswalk. It's something to think about. You are introducing a situation where people will be walking across the street with their kids.

Mr. Simmons stated: What you are talking about is a midblock crosswalk. This is not something you would want to set up for this. I would suggest that the owner give instructions to his clients that they should utilize the existing crosswalk to access the building.

Mr. Ennis stated: I can include that in the waiver that they sign.

Mr. Wink questioned: What if the VFW no longer wants to house parking?

Mr. McCabe stated: We do have enough space on the property to accommodate the need, but these are much more convenient.

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Ms. Caldwell referred to her report dated December 14, 2017 and stated: The only thing I noted is the signage. If they don't have the detail at this time to submit for a zoning permit that's fine. I just want to be clear that it is not part of this approval at this time.

Mr. McCabe stated: We haven't designed it yet, but are going for no more than 15 linear feet.

Portion opened to public. None stepping forward. Portion closed.

Mr. McCabe stated: I want to mention that I agree with Mr. Simmons on the concrete wheel stops. They will be installed.

Mr. Soloway crafted a motion: The application for waiving of submission of a formal site plan to allow Mr. Ennis to operate this facility with the following conditions; stripe the four onsite parking spaces, install concrete wheel stops if deemed necessary by the Town Engineer, install a light at the entrance if deemed necessary by the Town Engineer, the owner include in the instruction package of materials given to students information about crossing at the crosswalk at the intersection of Clinton and Mill Streets, the applicant should notify the Board if the parking agreement is terminated by the VFW. The applicant would be required to produce an agreement for substitute parking and come back to the Board and also the typical conditions.

**A motion was made by Mr. Levante and seconded by Mrs. Vrahnos to approve the application.**

**AYE: Mr. Wink, Mrs. Vrahnos, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**The application was approved.**

Mr. McCabe stated: I would ask the Board to confirm that they recognize the waiving of the 30 day rule.

**Motion to approve waiving of the 30 day resolution.**

**AYE: Mr. Wink, Mrs. Vrahnos, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**Motion approved.**

**Cellco Partnership d/b/a Verizon Wireless (#PBFSP-11-2017)  
Block: 18.03, Lot: 15  
69 Sparta Avenue**

The applicant is requesting preliminary and final major site plan approval for a building Concealed Wireless Communication Facility on the Merriam Gateway building.

Mr. Richard Valenti, Esq. of Morris, Downing & Sherred is representing the Planning Board.

Mr. Michael Beck, Esq. of Hering, Dupignac, Stanzione, Dunn & Beck is representing Verizon Wireless.

Mr. Beck stated: Verizon Wireless is requesting preliminary and final major site plan approval to construct a radio frequency friendly decorative enclosure that mimics the historic HW Merriam

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Water Tank, to be placed atop the existing 80' square penthouse on the property that you are all familiar with as the Merriam Gateway Apartments. The applicant is looking to relocate nine telecommunication antennae, nine remote radio heads and associated equipment and GPS units inside this radio frequency friendly faux water tower. We also propose to mount a decorative handrail around the water tank. Verizon Wireless proposes to locate its radio and battery equipment on a concrete pad inside an 11' x 14' fenced area adjacent to the base of the stair penthouse. The equipment is proposed to be surrounding by a decorative brick and iron picket fence with a minimum height of 5' 10". A 20 kw natural gas generator is proposed to be next to the ground equipment on a 4' x 8' concrete pad. That is proposed to be landscaped with mixed shrubs and evergreens. The property itself is in the T-5 neighborhood core zone. It is also in the Merriam Avenue Redevelopment zone. By virtue of the fact that it's in a Redevelopment Zone, the Redevelopment Zone plan controls over the typical T-5 ordinance. Telecommunications use is specifically permitted pursuant to Section 4.3 of the Merriam Gateway Redevelopment Plan. The proposal qualifies as a building, concealed wireless telecommunications facility, which is the language from the Redevelopment Plan. I'm excited to be here because this project started in 2015. The applicant initially submitted proposals to the Newton Historic Advisory Preservation Commission as well as the Sussex County Historical Society and had a slightly different version of this plan. On the virtue of comments from the Preservation Commission and the Historical Society we are here today with this proposal to create this faux water tank that is circa 1910 HW Merriam tank that previously existed on this site. It was recommended that the plan be changed to be what's before you this evening. Following those changes, the Newton Historic Advisory Preservation Commission issued its approval of the plans on June 21, 2016. The New Jersey State Historic Preservation Commission approved these plans on August 22, 2016. Subsequent to that the Merriam Gateway Redevelopment Plan had to be amended by the Town in order to allow this type of use. That amendment occurred over the past year. More recently, Newton Water and Sewer approved our plans by letter dated November 14, 2017 and Elizabethtown Gas by letter dated December 5, 2017. The Sussex County Planning Board has the same plans in front of them. They are pending for their January 8, 2018 calendar. That's where we are this evening. We are not seeking any variances. That being said I do have three professionals with me this evening. I have our Radio Frequency Engineer, our Professional Planner who prepared the photographic simulations in front of you, and our architect who prepared the plans. That's a general overview of the application. Again we are seeking site plan approval with no variances.

Mr. Le Frois questioned: Do you have a presentation you would like your professionals to make?

Mr. Beck stated: I would like to show the Board the photo simulations and mark them into record. My Professional Planner will address those. Although we are not focusing on the need, our radio frequency expert can tell you why Verizon is going through all the trouble and cost over the past two and a half years for this site, and tell you what type of coverage is proposed, where there are gaps in coverage and also confirm that the site complies with all of the FCC requirements. The Architect is here to discuss the design of the site which was specifically redesigned to accommodate the historic nature of the property.

Mr. Valenti stated: From what I've heard this evening the application has been properly noticed and they can continue with the application.

Sworn in: Frances Boschulte, Radio Engineer, PierCon Solutions, 63 Beaver Brook Road, Lincoln Park, NJ; Frank Colasurao, Licensed Architect in the State of NJ, 450 Clark Drive, Mt. Olive, NJ, William Masters Jr., Planner Consultant, 19 Island Drive, Morris Plains, NJ.

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Mr. Masters gave his education and licenses. B.S. in Landscape Architecture from Rutgers University, Professional Planner licensed in the State of NJ for 31 years, Planning Director for Township of Parsippany Troy Hills for 15 years, for the past 23 years involved in his own private practice focusing on applications pertaining to Wireless Telecommunications facilities. Testified before Planning/Zoning Boards throughout the State of NJ.

The Board accepted Mr. Masters credentials.

Mr. Beck introduced Exhibit A-1-8 dated March 12, 2016, panned board with 8 ½ x 11 pictures.

Mr. Beck questioned: In your review of the Redevelopment Plan does the proposed application before the Board this evening conform with the requirements of the Redevelopment Plan?

Mr. Masters stated: Yes it does.

Mr. Beck stated: There are questions in the Board Engineer's report of December 11, 2017 in regards to the visibility of the proposal. Would you please take us through the photo simulations and address the question of visibility from a planning perspective.

Mr. Masters stated: Exhibit A-1 is a foam board consisting of eight 8 ½ x 11 photographs and photo simulations. The images on the left side are photos of the existing site taken on March 12, 2016 by myself. The corresponding images on the right side of A-1 are repeated in the first photo simulations of the proposed installation. We have four different vantage points. The first vantage point was taken from Sparta Avenue and Woodside Avenue on March 12, 2016. The corresponding simulation in the upper right hand corner of this vantage point shows the faux water tank at the top with a decorative railing, a fence around the top outside perimeter of the faux water tank. The second photograph is taken from Merriam Avenue and Sparta Avenue. Looking across Sparta Avenue you can see the existing road, evergreen trees that exist along the front of the building. From this vantage point you see the faux water tank at the top, the railing surrounding it as well as the pivotal drain concealed as a downspout along the side of the tower. View number 3 is taken from Sparta Avenue and Diller Avenue. The corresponding photo simulation shows the faux water tank. That last photograph is a close up where I've actually gone in between the existing evergreen trees in front of the building on Sparta Avenue, peering between the trees to look at the ground area where the proposed equipment is to be located. The last photo simulation in the lower right corner shows the equipment compound and the generator which is screened by walls, fencing as well as landscaping.

Mr. Beck questioned: Going back to 2 and 2a, the view from Sparta Avenue, will people on Sparta Avenue, the passersby, generally be able to see into the courtyard where the proposed ground equipment will be?

Mr. Masters stated: Pedestrians would if they look between the trees. Vehicular traffic would not.

Mr. Beck questioned: From a general planning standpoint, can you address the visibility and the type of impact that you see from the site? In particular, construction of either a new monopole tower versus some other type of antenna on the building that is not concealed?

Mr. Masters stated: The telecommunications industry tries wherever possible to locate antennas on existing tall structures as opposed to building new antenna support structures such as on

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monopoles or towers. In this case, a historic building where we have a very innovative and creative development technique in terms of constructing a faux water tank which simulates a water tank that actually existed here at one time. It will be constructed out of legal frequency friendly material so that the antennas can be concealed inside the water tank and can function and radiate a signal through the material and you won't see any of the antennas. I think it's an outstanding example of utilizing stealth technology for the concealment of wireless telecommunications equipment.

Mr. Beck stated: I have no further questions for Mr. Masters and I open the questions to the Board.

Mr. Levante questioned: In 4a at the bottom simulation side, what type of equipment would be there?

Mr. Masters stated: It is radio frequency equipment associated with the antennas and the cabling that runs up the side of the tower concealed within the cable tray or downspout structure connects the radio equipment on the ground to the antennas. It is an integral part of the overall wireless telecommunications facility.

Mr. Beck stated: Our architect can describe more particularly what is going to be located on the ground.

Mr. Wink questioned: What is the proposed color of the downspout?

Mr. Masters stated: As depicted in the photo simulation it will be a typically aluminum downspout. However, if the Board prefers we can paint it the same color as the brick on the building.

Mr. Wink stated: That would be my suggestion.

Mr. Le Frois questioned: Are there any other downspouts on the building that you are trying to match?

Mr. Masters stated: I'm not aware of any particular downspouts on the building.

Mr. Wink stated: I think it should be painted to match the building.

Mr. Beck stated: We have no objection to painting the downspout to match the building.

Mrs. Vrahnos questioned: The equipment that powers the cells is behind the fenced and brick area. How does a technician get back there? Do they have a key or a passcode?

Mr. Masters stated: It is normally locked. They would have a key.

Mrs. Vrahnos questioned: The equipment outside the bricked area is a generator?

Mr. Masters stated: Correct.

Mrs. Vrahnos questioned: The reason I ask is because there are a lot of children in the area.

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Mr. Masters stated: The generator is self-contained and the architect can speak more to that.

Portion opened to public. No public stepping forward. Portion closed.

Mr. Beck introduced the Architect, Frank Colasurdo.

Mr. Frank Colasurdo stated experience, education and his license is current. He has been a licensed architect in the State of NJ since 1996 and his license is current. I've been designing wireless telecommunication facilities since 1990. I've been before the Newton Board of Adjustment in the past and been accepted as a qualified witness. The Board accepted his credentials.

Mr. Beck questioned: Did you prepare the plans?

Mr. Colasurdo stated: I did.

Mr. Beck questioned: Can you please describe the ground equipment to address the Board's questions.

Mr. Colasurdo referred to the latest revision of the plan dated 8/29/17 and stated: Turn to sheet Z6 of the site plan. This is a large plan of the equipment area. We are proposing to place the radio cabinets within a 10' x 11' x 13' area behind a decorative brick wall. To access the equipment area we are proposing a decorative iron gate which is lockable. To the right of that equipment shown on Z6 is our proposed natural gas generator which sits in front of an existing metal fire escape, so there is a buffer between the building.

Mr. Beck questioned: Can you address how many cabinets are proposed, what kind of equipment there will be on the ground, and then we can talk about the generator.

Mr. Colasurdo stated: Sheet Z7 has planned elevation of the radio cabinets. They measure 32" x 32" square and they are 74" tall. We need 200 amp electric service and a telephone line. Those services already exist on site. On sheet Z5 we are showing a new electric service for us. Verizon Wireless is trying to use what is in the building.

Mr. Beck questioned: Will the utilities and telecommunications be routed underground?

Mr. Colasurdo stated: Yes. Wherever possible.

Mr. Beck questioned: Are the equipment cabinets monitored remotely?

Mr. Colasurdo stated: The facility is designed to be unmanned so it doesn't require water or produce any sewage or solid waste. It is monitored remotely 24/7 with a series of silent alarms built into the radio cabinets. If someone tries to tamper with the equipment or something happens to the antennas, if they malfunction, lose power, or overheat a silent signal is sent to a Verizon Wireless monitoring station and a technician will arrive within an hour to find out what is going on. There will be a routine visit every 4 to 6 weeks which will not require a reserved parking spot. The technician will check out the equipment and make sure it is functioning properly. Regarding the electric service, there will be a telephone line, a gas line. The gas line is in the street at Sparta Avenue. The equipment doesn't produce any odor, or smoke, or vibrations or any noise that would exceed the NJDEP requirements, that's including the generator. From the

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source, which is the generator, to the closest property across the street at Sparta Avenue it meets the daytime limits which is 65 dba.

Mr. Le Frois questioned: Regarding the radio cabinet equipment, does it produce any noise?

Mr. Colasurdo stated: They have a fan on the door. It is 5 dba at 3' away. It's comparable to an exhaust fan in the bathroom. The specifications we've got tell us that this generator produces 65 dba at 23' away. It is over 50' to the property line.

Mr. Le Frois stated: I understand the property line. I'm concerned with the noise to the residents of the building.

Mr. Collausardo stated: There is no standard for noise for neighbor. It is slightly louder than your dishwasher. It is in a steel acoustic housing that is locked. To get in you need a crow bar and a hammer. No moving parts to be touched. The exhaust is up. There are no pipes. Details on sheet Z11 in the site plan show the isolator spring which absorbs any vibration. Also inside the housing is the motor itself. The exhaust is on the top of the unit.

Mr. Le Frois questioned: Do you know an approximate distance from the equipment to the nearest residential unit in the building?

Mr. Collausardo referenced Exhibit A-2, a colorized version of Sheet Z-4 and stated: If you look at the sheet you can see what the different colors represent. To the right of the circle is a blue square. That is the equipment compound and below that is the generator. I'm hoping you can see on the site plan that between our generator and the building is a fire escape. It is a 4 story metal structure between our generator and the closest residents. So to give you an estimate of how close our generator is to the nearest resident it would be over 20' away.

Mr. Beck questioned: When will the generator be exercised by Verizon Wireless?

Mr. Collausardo stated: It is exercised every other week between the hours of 10AM and 2PM for approximately 45 minutes.

Mr. Beck questioned: Can you confirm that all off set requirements are met in regards to windows and air intakes. Is 20' away from the building compliant?

Mr. Collausardo stated: The generator exhaust regulation is that it has to be 10' from the opening in an exterior wall. If that exterior wall is fire rated one hour you actually get the generator closer. It's the exhaust that dictates that.

Mr. Beck questioned: On Mr. Simmons's report on page 2, item 3 regarding the site plan he asks if there is any lighting, either steady, flashing or strobe that the FAA requires?

Mr. Collausardo stated: We confirmed with the FAA that no lighting is required.

Mr. Beck questioned: What lighting is proposed?

Mr. Collausardo stated: There is lighting down by the cabinets. It's on a one hour tech timer so if a tech were to come in the middle of the night he can turn on the light and it would go off after an hour.

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Mr. Le Frois questioned: What kind of lights?

Mr. Collausardo stated: Look at sheet Z10. We are proposing 2-20 watt LED light fixtures, downward facing to the cabinets and shielded. It would be for a technician at night and would go off after an hour.

Mr. Elvidge questioned: What is the procedure for the installation on the top of the tower?

Mr. Collausardo stated: To install the structure and to maintain the antennas inside it you will need an air lift. The only way to get in is through someone's apartment. At one point it may have been an elevator shaft but it is now apartments. The only way to get to it is through that roof through a bedroom. We will need to do it with a man lift. The maintenance is really for the cabinets which is why they are on the ground, not the antennas.

Mr. Elvidge questioned: So is the access going to be abandoned up there?

Mr. Collausardo stated: Yes. There will no longer be access to the roof from that apartment.

Mr. Le Frois questioned: Will the antennas be put up first?

Mr. Collausardo stated: No. We did forensic studies on it. There are some 18" steel beams that frame the top of the tower that hold the elevator cables. We will put structured steel posts to the steel beams and then a platform. So it will be built on the ground, dropped and then bolted down. The antenna will then be put inside. I'm thinking they might want to do it while it's on the ground and then hook up the cables when it's on the tower. There will be a total of 9 antennas. You can see that on sheet Z9 in the upper right hand corner of the Antenna Plan.

Mr. Beck stated: Mr. Simmons asked how many co-locaters Verizon Wireless anticipates and how will you plan to design the structure to handle future co-locaters. Does the size and shape of the water tower accommodate co-locaters?

Mr. Colasurdo stated: No, it does not. It was not designed for co-locaters. This is a roof top installation. Even in installations without a water tower, we would only have antennas on the roof, not co-locaters.

Mr. Beck questioned: In this case at the request of the Historic Preservation Commission and the Sussex County Historical Society, the applicant was requested to recreate what was an existing wooden water tank. Are you constrained by the size and shape of what used to be there and that effects how many antenna can be in there?

Mr. Collausardo stated: That is correct. We have had a lot of help from the Historic Commission and the Historical Society. They have helped guide us to accurately design it proportionately, the spacing and size. They sent us a photo from 1949 of what used to be there.

Mr. Le Frois questioned: Is the lettering black?

Mr. Colasurdo stated: The lettering is white. The tank is a light gray. The hand rail is a dark gray. The font height is 1' 9" and the font style is Swiss 721 CN B1. We had a lot of guidance on this.

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Mr. Beck stated: The Historic Society sent us a photo of what was there and asked us to recreate it.

Mr. Le Frois questioned: What is the tank made of? What material?

Mr. Colasurdo stated: It is fiberglass and Styrofoam. There's a wall of fiberglass, Styrofoam, and then fiberglass again. So it is sandwiched between it. That is what allows the antennas to broadcast through.

Mr. Le Frois questioned: Is there lightning arresting equipment?

Mr. Colasurdo stated: On sheet Z12 in the middle of the page you will see a lightning rod on top. The rod is connected to a ground wire, connected to a ground bar, inside the full water tank. That ground bar will take another ground wire from the full leader, to the equipment, hook up to another ground run which has ground rods driven into the ground. That's the grounding system.

Mr. Beck stated: There was a question with regards to removal of the tank at the end of the lease term. What is your opinion in regards to this?

Mr. Colasurdo stated: I can see the equipment going away, but why would anyone want to take the tank down.

M. Beck stated: I believe we answered most of the questions from Mr. Simmons's report. I have no further questions for Mr. Colasurdo.

Mr. Levante questioned: What is the strength of wind it can withstand?

Mr. Colasurdo stated: It can withstand the wind design mode for this area which is about 115 mph now.

Mr. Beck questioned: So you did a structural analysis of the site and can it accommodate the proposed structure?

Mr. Colasurdo stated: Yes. The structure has been designed to meet all applicable building codes. The wind is the big consideration. But also, wind and ice. The wind speed is increased by ½" radial ice. If approved we have construction documents for your Building Department. Those documents include a structural report by our structural engineers showing the building can support the structure. The structure itself is designed by a company who can give us shop drawings that are signed and sealed by their structural engineers. So everything is signed and sealed by professionals and meet all applicable State building codes.

Mr. Beck questioned: As a result of the Technical Review Committee meeting, Verizon Wireless through your company actually performed ground penetrating radar all around the areas of the ground equipment. As a result of that investigation were there any subsurface issues that the Board needs to be aware of?

Mr. Colasurdo stated: No. There were not.

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Mr. Beck stated: In fact, that report was submitted to the Board and we did take that additional step, doing ground penetrating radar, contacting Water and Sewer and Elizabethtown Gas to make sure there were no existing utilities.

Portion opened to the public.

1<sup>st</sup> Public: Michael Malone, 59 Trinity Street, Newton. I will repeat what I've said before. Regardless of what this will do, will it provide radiation? Anything in the radio frequency range produces radiation. This is going to be within feet of human beings. My concern is what effect does this type of radiation have? Can research be done by an independent company on the effects of the exposure?

Mr. Colasurdo stated: I'm not the expert to answer that.

Mr. Le Frois stated: We have not gotten to that testimony yet. The next professional to speak will talk more about that.

No more public stepping forward. Portion closed.

Mr. Beck introduced Ms. Boschulte as a Radio Frequency Engineer.

Frances Boschulte stated her qualifications - Bachelor's Degree in Electrical Engineering through the City College of New York, worked as a Radio Frequency Engineer for over 15 years, I have testified before Boards throughout New Jersey and New York.

Mr. Beck questioned: Are you fully familiar with the Verizon Wireless design criteria and plan for the Town of Newton?

Ms. Boschulte stated: Yes.

The Board accepted her credentials.

Mr. Beck questioned: Why is Verizon Wireless here? In order to answer that question, first what I would ask is whether or not you're familiar with the Piercon Solutions report dated September 26, 2016 titled "Independent Radio Frequency Report" and it references the site identification of Newton. Are you familiar with this report and did you prepare it?

Ms. Boschulte stated: Yes, I did.

Mr. Beck marked this report as Exhibit A3 and stated: Please summarize to the Board your report dated September 26, 2016 and let us know why Verizon Wireless is here and what will that site accomplish?

Ms. Boschulte stated: Yes. Verizon Wireless is licensed in four frequency bands. The 850 MHz which handles the voice traffic. The 700 MHz which handles the data traffic. The 2100 and the 1900 MHz which also carries data traffic. It's known as the 4G LTE that you always hear about. The main purpose of this proposed facility is for two reasons. One, Verizon Wireless currently has a coverage gap in the higher frequency bands, the 1900 and 2100. They are beginning to roll out these frequency bands in the areas where data traffic is high. The 700 MHz which carries the data traffic for two existing facilities that are currently providing coverage to the Town of

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Newton have reached capacity exhaustion. The only way to remedy that is to install a new facility that will provide coverage in the higher frequency bands and will be able to off load the data users that are utilizing the two existing facilities.

Mr. Beck questioned: Is it safe to say that Verizon Wireless has a coverage gap in some frequencies and a capacity issue in other frequencies?

Ms. Boschulte stated: That is correct.

Mr. Beck questioned: If the Board were to approve this application would this site satisfy those technical problems.

Ms. Boschulte stated: Yes it would. It would be adding the additional coverage to existing Verizon Wireless customers as well as adding additional channels to the area.

Mr. Beck stated: In your description of the various licenses that Verizon Wireless holds you talked about data usage. Are they simply trying to allow people to stream Netflix or will this affect voice calls as well?

Ms. Boschulte stated: This is strictly for data users. Anyone who utilizes the service to text, online banking, download videos, all types of data that's being transferred. This will help to alleviate the capacity exhaustion issues on the two existing bands.

Mr. Beck questioned: Is it accurate to say that Verizon Wireless is moving its voice calls to Voice Over LTE?

Ms. Boschulte stated: That is correct. It has already been announced. Verizon Wireless will be decommissioning their 800/850 cdma voice and it will be migrated over to the 700 MHz 4G LTE instead. It will be known as VOLTE, Voice Over LTE.

Mr. Beck stated: If I understand the technology correctly it transmits your voice into data the same way you can make a phone call over your current internet connection, Voice Over IP. So this is a newer technology that Verizon Wireless is using. So ultimately this site will affect voice calls in the area?

Ms. Boschulte stated: That is correct.

Mr. Beck questioned: When you have a capacity issue as you've indicated here, what surrounding sites are at capacity?

Ms. Boschulte referred to her report, Exhibit B, page 15, and titled "Newton 3 Verizon Wireless Existing 1900/2100 MHz coverage". This is a bit complication map generated by Verizon Wireless complication tool. It takes into account, the array, the antenna height, the transmit power and provides a prediction of what the existing facilities will cover. That is depicted in green. To the north on the map in purple dots I've indicated the existing Verizon Wireless facilities. In the center of the map is the proposed, in brown, known as Newton 3.

Mr. Beck questioned: Which sites that are currently active are reaching capacity?

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Ms. Boschulte stated: The Newton site to the north, the beta sector, and Andover 3, gamma sector, pointing towards the Town of Newton.

Mr. Beck questioned: In layman's terms, what happens when a site reaches capacity?

Ms. Boschulte stated: If you are trying to utilize an application it will time out. If you're text messaging your message might not be received. You would not be able to receive emails. Anything that utilizes data information. You will either time out or there will be a long wait time.

Mr. Beck questioned: You indicated on your Exhibit B, page 15, that shows the existing coverage you said something with regards to the green coloring. What does the green coloring represent and what does the light coloring represent?

Ms. Boschulte stated: The green represents Verizon Wireless' existing, reliable, in-building coverage. The area in white indicates areas where the 1900 and 2100 coverage does not exist inside your home.

Mr. Beck questioned: So the white areas are gaps in indoor coverage. Is that correct?

Ms. Boschulte stated: That is correct. The gaps in coverage.

Mr. Beck questioned: Have you prepared an exhibit that shows how coverage will be enhanced in the 1900 and 2100 coverage if approved by the Board?

Ms. Boschulte referred to her report, Exhibit A-3, and stated: Yes. It is in my report as Exhibit D. It is titled "Newton 3 Verizon Wireless Existing and Proposed 1900/2100 MHz coverage". If the site is approved you will have increased data capacity down Sparta Avenue, from Madison Street, down the County Highway 663, as well as the residential neighborhood from Sparta Avenue northwest toward Merriam Avenue near Clive Place and approximately, 1/8<sup>th</sup> of a mile going southward on Sparta Avenue, and .5 miles towards the residential area going northwest.

Mr. Beck stated: When you introduce a new site that is in the middle of two existing sites that area reaching capacity, by putting the new site in the middle do you improve overall coverage to subscribers in those adjacent sites?

Ms. Boschulte stated: Yes. What you end up doing is that the proposed facility is actually strategically located between the two sites that are at full capacity. Users in this area will no longer look to the Newton site or the Andover site to communicate, so you will have improved signal; in addition, the users are now closer to the proposed facility. The battery life on your phone will actually last longer.

Mr. Beck questioned: So by adding this site in the middle, subject site Newton 3, you are actually going to help subscribers that are shown on your exhibit in the areas surrounding the Newton Relo and the Andover 3 sites as well. Is that correct?

Ms. Boschulte stated: Yes. That's correct.

Mr. Beck questioned: How many FCC licenses does Verizon Wireless hold?

Ms. Boschulte stated: Four.

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Mr. Beck questioned: In this particular site will the antennas placed in the faux water tank be utilizing all four licenses?

Ms. Boschulte stated: Currently they will be utilizing the 700, 2100, and the 1900 licenses. Since voice is moving from the 850 it is not included in this application.

Mr. Beck questioned: So all the voice will move over to the 700?

Ms. Boschulte stated: Yes.

Mr. Beck questioned: So once this site is operational, if the Board were to approve it, it would actually increase the voice call capacity for the exhausted sites as well as the centrally located site Newton 3 once it is transferred to 700. Is that correct?

Ms. Boschulte stated: Yes. It would be an improvement in voice quality as well as the high speed footprint.

Mr. Le Frois questioned: The purple area seems relatively small compared to the other facilities; especially with nine antennas and the height. Is this normal for a typical installation or is it smaller for some reason?

Ms. Boschulte stated: Good question. You see a great deal of scattering in other areas. Each of the wireless facilities propagation is not quite uniform. That has a lot to do with the terrain. Because of the hills and the valleys, 2100 and 1900 do not propagate as far as 700 MHz frequencies. They are more adversely affected by the terrain and the trees, foliage and existing clutter in the environment. What you see here is that the proposed facility has a good line of sight to the north going along Route 206 to a hill where it dies off. Again, the south near Birch there's another hill and you can see it's obstructed. So the higher the frequency the more adversely affected you are by your environment. If you look at the other two spots that run for the 700 MHz you'll see that they cover a great deal more. They propagate better in the environment.

Mr. Beck stated: For the record we are showing the Board a blow up of Exhibit A of your report titled "Existing and Approved 700/850 MHz Coverage" in which the green color shows the reliable in-building coverage. Is that correct?

Ms. Boschulte stated: Yes.

Mr. Beck questioned: Have you prepared a similar exhibit that shows any additional gaps in the 700 would be filled by this site?

Ms. Boschulte stated: Yes. Part of the difficulty with the 700 MHz is that Verizon Wireless only has one channel and that channel's bandwidth is only 10 MHz. So it doesn't have the ability for as many users on that channel as the higher frequencies. This is why Verizon Wireless purchased the 1900 MHz and the 2100 MHz in order to have the additional capacity. But as you can see underneath the green you have the purple which is the proposed propagation. You can see it covers much farther. The 700 MHz is more of an umbrella type of coverage. The 1900 and 2100 are being deployed in the area in order to increase capacity.

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Mr. Beck questioned: Just so we are clear on the record, what you are showing the Board now is Exhibit C from your report titled "Existing and Proposed 700/850 MHz Coverage" in which the purple areas on this exhibit are filling in what were previously noted as gaps on your prior exhibit. Is that correct?

Ms. Boschulte stated: Yes. That is correct.

Mr. Beck questioned: If the Board were to approve this application would the radio frequency produced by Verizon Wireless interfere with any other telecommunication carriers, local EMS, fire, or other emergency telecommunications?

Ms. Boschulte stated: No. Verizon Wireless is set up to transmit at the specific frequencies that they are licensed for.

Mr. Le Frois questioned: Do those interfere with any of the emergency communications?

Ms. Boschulte stated: No. There are no problems with that.

Mr. Beck questioned: The FCC regulates these licenses and how they operate with other carriers and other communications devices. Is that correct?

Ms. Boschulte stated: That is correct. And if it were brought to Verizon Wireless attention that there was an issue they would be willing to work with any entity to resolve it.

Mr. Beck stated: You have also prepared another report that is before the Board. Are you familiar with the PierCon Solutions report dated February 9, 2016 entitled "Evaluation of the Radiofrequency Environment in the Vicinity of the Proposed Newton 3 Wireless Facility"?

Ms. Boschulte stated: Yes.

Mr. Beck stated: I would like to mark this as Exhibit A-4. Please describe to the Board your findings with regards to the radio frequency environments from the site. This was a concern of Mr. Malone who stepped up to the microphone.

Ms. Boschulte stated: Our study indicated according to the FCC, specific guidelines have been set based on the proposed facility. The findings are that the maximum exposure is 11.125, which is 8.98 times below the FCC maximum, maximum being 100%.

Mr. Beck questioned: Does the proposed facility fully comply with the FCC guidelines with regard to radio frequency emissions?

Ms. Boschulte stated: Yes.

Mr. Beck questioned: And that compliance is by a factor of almost nine times?

Ms. Boschulte stated: That is correct.

Mr. Beck questioned: Does the State of NJ also have regulations with regards to emissions from wireless facilities?

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Ms. Boschulte stated: Yes and it is less stringent. It is 2.2% of the 100% maximum FCC.

Mr. Beck questioned: How many times below the NJ standards is this facility set to operate at?

Ms. Boschulte stated: Almost fifty.

Mr. Beck questioned: There was indication earlier that there is an existing apartment beneath the proposed antennas. Will the antennas have any impact whatsoever on the residents of this apartment?

Ms. Boschulte stated: The radio frequency energy is propagated out toward the horizon. It does touch the ground at some point but it is much further away. There is very little energy that comes out of the antenna directly below or directly above. So the limits would be even less than that.

Mr. Beck questioned: The percentages you gave in regards to NJ and FCC standards, are those worse case scenarios?

Ms. Boschulte stated: The FCC has put in additional safety factors. This is an additional factor of 50 for the general public. So it's 50 times less than what it could be. So they are extremely conservative.

Mr. Beck questioned: When you put in the input for the specific antennas that are used, the frequencies and the power that's used, are you required to utilize the maximum power at all times with all antennas functioning all at once?

Ms. Boschulte stated: Yes. The four frequency bands are included at full maximum power with consideration that this will be operating 24 hours and seven days a week.

Mr. Beck questioned: Is it your testimony that if the application is approved Verizon Wireless's facility will fully comply with the FCC guidelines with regard to emissions?

Ms. Boschulte stated: It will be fully compliant.

Mr. Beck stated: I have no further questions for Ms. Boschulte but before I open her to the Board and the public the only thing I will note is that we are bound by the Federal Telecommunications Act of 1996 which has certain pre-emptions in it. The U.S. statute is 47usc332c7b4 which indicates that states and municipal governments may not regulate the placement, construction, and modification of wireless facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations regarding those emissions. The Federal government has made a decision that there should be consistency across the United States and that the effects of radio frequency emissions should be governed by a Federal standard rather than a municipal standard, ordinance standard, or State standards. Ms. Boschulte has testified and her report indicates that this will be fully compliant with the FCC's guideline on emissions. That being the case, it is my legal argument to the Board that the Board is precluded from considering health effects, or the emissions themselves in rendering its determination whether or not site plan approval is appropriate in this case. That being said, you are welcome to ask Ms. Boschulte any questions that you may have and of course the public will be welcome to ask any as well.

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Mr. Valenti stated: Mr. Beck's summary of the law is correct.

Mrs. Vhranos questioned: You said that you comply with guidelines. Guidelines are not mandatory, but regulations are. Are they guidelines or regulations?

Mr. Beck stated: They are mandatory FCC regulations.

Portion opened to the public. None stepping forward. Portion closed.

Mr. Simmons referred to his report dated December 11, 2017 and stated: We had another application that Mr. Beck was involved in for Liberty Towers. They recently took the generator away. Have they also disbanded the antenna on that particular site?

Ms. Boschulte stated: It will. Currently the only technology there is the 850 MHz facility that will be decommissioned at the end of 2019.

Mr. Simmons questioned: So by the end of 2019 the Liberty Towers facility will be out of service?

Ms. Boschulte stated: Correct.

Mr. Simmons questioned: So in your propagation studies you basically looked at it like that was already out of service? So it is a moot point?

Ms. Boschulte stated: Correct.

Mr. Simmons questioned: To keep the water tower proportionate to the way the Historical Commission wanted it you will only have so much room inside. Is it true or is it something you can expand either the radio equipment to increase the capacity of the site you're proposing tonight at all? Or will what this site will do be what it will do forever?

Ms. Boschulte stated: What this site will do is what it will do with the current FCC licenses that Verizon Wireless has. For each frequency band there is one traffic channel. Unless they purchase an additional license then that new technology can be added in. But it is currently set up as a fully expanded site from the start.

Mr. Simmons stated: Through the years we've had other applicants come in that have started with an original panel type of antenna. As technology improves, the type of antennas improve. If that happens here, do you have the space and the structural capacity to add those antennas?

Mr. Colasurdo stated: Yes. We would have that covered.

Mr. Simmons stated: Do you know of any long range plans you might have for any other location in Town or adjoining municipalities?

Mr. Beck stated: If you look at Ms. Boschulte's radio frequency report marked as A-3, listed as Exhibit E, the last page of her report and there are stars that show where they might need a site in the future. Can you please explain this further?

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Ms. Boschulte stated: This is all hypothetical. This is based on usage and things we have seen with capacity and need. The open white areas are areas that lack coverage. Areas to the north of High Street near the hospital, another is off Main Street near the High School, and there is a third near Donald Avenue to the west near the skateboard company, adjacent to Paterson Avenue. These are potential additional installations in the future. Right now as you can see on the previous maps, 700 MHz is doing a good job providing coverage to the Town of Newton. But as the usage increases there may be a need to expand and put a 1900 or 2100 facility in one of these areas to provide the high band coverage.

Mr. Simmons questioned: I know Mr. Colasurdo indicated that you do not need a dedicated parking space. Is there anything in the lease that says that the technician would be allowed to park in the parking lot? I don't think the County will want any parking in the County road.

Mr. Beck stated: The lease provides for 24/7 access and the applicant can utilize the existing parking spaces.

Ms. Caldwell referred to her report dated December 4, 2017 and stated: As Mr. Beck outlined with his professionals, we did amend the Redevelopment Plan in August of 2017 for the Redevelopment area to permit building concealed wireless communications facilities subject to certain conditions. I reviewed the conditions in my report and found they met those conditions and it is a permitted use. There are also design standards that I reviewed and they met those as well. They do not require any variances or deviations from the Redevelopment Plan and they are a permitted facility which meets all the requirements.

Application opened to the public. None stepping forward. Application closed.

Mr. Valenti questioned Mr. Beck: I understand that conditional use will be granted this evening as well. Mr. Beck do you have a comment on that?

Mr. Beck stated: Sure. We are dealing with an interesting jurisdictional frame work. That being the Redevelopment Plan which supersedes your regular zoning ordinance. Yes, there were conditions in the Redevelopment Plan. So to the extent you can classify it as a conditional use we are seeking conditional use permits. The Redevelopment Plan itself called for this to be a major site plan rather than a minor.

Mr. Valenti crafted a motion for approval to include typical conditions such as compliance with all Federal and State laws, compliance with the plans as they were submitted, and if there any significant deviations required by the County they would have to come back to the Board. Additional conditions include: paint the downspout that covers the coaxial cable to match the brick and provide construction documents to include the engineering report that the building can support the structure and meet all building codes and provide an as-built plan signed off on by a Licensed New Jersey Land Surveyor showing the height of the structure and the distance from the property line as well as an as-built condition of all the equipment on the base.

**A motion was made by Mr. Levante and seconded by Mrs. Vrahnos to approve the application.**

**AYE: Mr. Wink, Mrs. Vrahnos, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**The application was approved.**

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Gary Marion arrived at 9:35 pm.

**Fitness Nation, Inc. (#SPWV-12-2017)**  
**Block: 13.05, Lot: 25**  
**11 Nelson Street**

Mr. Elvidge recused himself as he is within the 200' list for this application

The applicant is requesting a waiver of site plan to renovate vacant existing commercial space into a gym and fitness center.

Mr. John Ursin, Esq., representing the applicant, stated: The applicant is Fitness Nation. The owner is John Sabo. The gym is currently located in the Merriam Gateway building. His lease ends at the end of the winter and he wanted to find another spot to relocate in the area to serve the same clientele. There are people who come from the neighborhood and Thorlabs. I did the Dollar General application to convert the front half of this building back on October 20, 2010 by site plan waiver in the same way the application is coming to you tonight. The variances we are seeking have to do with a pre-existing rear yard setback from the building and sign variances for signs that are existing with the exception of the addition of the façade sign. So if it pleases the Board I will have Mr. Sabo sworn in and testify about the specifics about the business he proposes.

Mr. Soloway questioned: The question was asked several hours ago about several Board members participating at the facility. I spoke with Mr. Ursin outside of the hearing and I am satisfied that it is not a conflict that requires anybody to step down.

Mr. Le Frois stated: Just for the record, Mr. Levante and Mr. Le Frois are members.

Mr. Marion stated: I am a member of another gym in Town. I don't think it's a conflict but I just wanted to put it on the record.

Mr. Ursin stated: I agree with the attorney's rationalization that it's no different than patronizing a lot of different types of businesses that you would hear on an application.

Sworn in: John Sabo, 75 Sparta Avenue, Newton, NJ 07860

Mr. Ursin questioned: Tell the Board where your current business is located and how long you have been there, how many members do you have, and why did you choose this location geographically?

Mr. Sabo stated: We are at 75 Sparta Avenue and have been there since 2007. We have between 1200 and 1300 members. We chose this new location because it is only a ½ mile from the current facility.

Mr. Ursin questioned: Do you believe it provides an increased viability for the business in the new location because it's not too far?

Mr. Sabo stated: Correct.

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Mr. Ursin questioned: Please provide a description of the space you are proposing to renovate?

Mr. Sabo stated: The space is an open rectangular warehouse space. The ceiling height is 18'. It is just open space with a few beams.

Mr. Ursin questioned: Regarding the proposal of what's going to be inside the building once the renovations are done, are you familiar with the plan created by Charlie Schaeffer dated September 28, 2017 and is that the plan you want to build to renovate the inside of the building?

Mr. Sabo stated: Yes, that is correct.

Mr. Ursin stated: If the Board were to grant your application and allow you to open this business, you are proposing that you have 24 hour operation is that correct?

Mr. Sabo stated: Correct. It has been 24 hour operation for about 8 years.

Mr. Ursin questioned: Explain to the Board when employees are there and what the procedures are for a 24 hour operation.

Mr. Sabo stated: We have employees on site from 8 am to 10 pm. It is manned by a lock which if you are a member you can swipe and enter the building.

Mr. Ursin questioned: In the eight years you have been operating 24 hours, can you give an estimate the number of people who use the gym after hours?

Mr. Sabo stated: There is a significant amount of people that use the gym after hours. Approximately 1 or 2 people at a time.

Mr. Ursin questioned: So you are not envisioning 10, 12, or 20 people after hours? In your history it is just one or two at a time?

Mr. Sabo stated: That is correct.

Mr. Ursin questioned: In the location there will be parking spots in front of the door and some down lighting at the entrance of the door?

Mr. Sabo stated: Correct.

Mr. Ursin questioned: Regarding the variance you are seeking the building is located 2.05' off the back line that's the variance you are seeking for rear yard setback?

Mr. Sabo stated: Correct.

Mr. Ursin questioned: And you have approximately 110 parking spots shared between you and the Dollar General. Is that correct?

Mr. Sabo stated: That is correct.

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Mr. Ursin questioned: The only lighting you are adding to this location in the proposal is the lighting at the front entrance and it will be down lighting. And there will be an awning and the lighting will be in the awning. Is that correct?

Mr. Sabo stated: Yes.

Mr. Ursin questioned: The rest of the site currently has lights and they will remain exactly the same. Is that correct?

Mr. Sabo stated: Yes.

Mr. Ursin questioned: You are requesting four signs in your application. Is that correct?

Mr. Sabo stated: Yes.

Mr. Ursin marked the colorized version of the E.M. Signs exhibit as Exhibit A-1 and Exhibit A-2 and stated: These signs are represented on the two page exhibit prepared by E.M. Signs that was submitted to the Board. Correct?

Mr. Sabo stated: Correct.

Mr. Ursin stated: The signs are numbered in red. Number one is the Fitness Nation sign above the front entrance. Number two is the large pylon sign that currently has the Dollar General sign with a blank space underneath it. The third one is a pylon sign in the front. The fourth one is the pylon sign that comes off the back road, Lawnwood. Is that correct?

Mr. Sabo stated: Correct.

Mr. Ursin questioned: With respect to your operation, do you need any new trash and recycling facilities or will you share the one that Dollar General currently has?

Mr. Sabo stated: We will share it.

Mr. Ursin questioned: Will you be in compliance with your architect? Has he informed you that the design as it is currently proposed is going to be compliant in every way?

Mr. Sabo stated: Yes.

Mr. Ursin stated: I have no further questions for Mr. Sabo. If the Board would like to pose any questions please do so.

Mr. Le Frois questioned: Is the existing HVAC going to remain as is and is it sufficient for what you would need?

Mr. Sabo stated: We are going to be putting in a new HVAC system.

Mr. Ursin stated: The architect submitted a letter to the Board dated December 7, 2017, stating that he could not be here tonight, but it did indicate that the HVAC system will be on the roof and not visible.

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Mr. Simmons reviewed his report dated December 14, 2017 and stated: Mr. Ursin and the applicant covered the majority of the issues. I would like to mention a couple of things. They do talk about the HVAC equipment. I would suggest to the Board that when the new equipment is put on the roof that we get some data to the Construction Official to show that the sound level at the property line is met as far as DEP requirements. This goes to the fact that the building is only 2.05' from nearest neighbors so we make sure that they are taken care of. In regards to the signage, I would bring to the Boards attention that when the Dollar General came in with an application we found that when we checked the as-built survey, Newton had some existing storm drainage and one of the main existing sewer mains that went right through the property and there are no easements for it. Just so the Boards know, the applicant did grant the easement for both of these utilities. So that was taken care of. Along the same lines, Mr. Ursin and I spoke before the meeting about getting a signed and sealed copy of the property survey. I suggested that the as-built plan that was prepared with the easements be provided for the Board's files in that regard. So that would address that as far as I'm concerned. Other than that the other issues that are involved are concerning the Construction Official in regards to the entrance doors and anything he wants on the interior of the building. The existing parking lot as part of the Dollar General was resurfaced and resealed in certain areas. A short time ago there was an additional parking lot light put in from the back near this proposed entrance to the Fitness Nation facility. So as far as from a site standpoint they are pretty much ready to go?

Mr. Le Frois questioned: Will they have to assign individual spaces for their facility only?

Mr. Simmons stated: I took the area of the site, roughly 18,910 square feet and based on one interpretation of the ordinance of 3 spaces per 1,000 and came up with 57 spaces that are needed. I didn't go out there to count them, but I had that as-built plan with all the spaces on it and I came up with 108 available spaces. So they've got almost twice as many spaces. I don't think we need to worry.

Mr. Ursin stated: Regarding the spaces, because there were plenty of them we didn't feel we needed to allocate them. We also did some field work with analyzing what's there with the Dollar General use and it's not taxing on the parking lot.

Mr. Simmons stated: I think from a practical standpoint people going to the Fitness Nation are going to gravitate to the entrance. The people going to the Dollar General will likely gravitate to the front.

Mr. Le Frois questioned: Will there be handicap spots?

Mr. Sabo stated: The handicap spots will be the closest spots to the door.

Mr. Simmons stated: Normally we defer that to the Construction Official. Given the space of the building there is no reason not to provide them. They are right there.

Ms. Caldwell reviewed her report dated December 14, 2017 and stated: The applicant is applying for a bulk variance for a pre-existing rear yard setback that is 2.05' where 20' is required. We typically don't require a variance if they are not making any changes.

Mr. Ursin stated: No changes.

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Mr. Soloway stated: Typically the Board doesn't deal with something like that unless it's a variance. More than likely if the Board approves it I will draft the resolution and indicate that there is nothing they can do anyway.

Mr. Le Frois questioned: Is there a need for a formal variance?

Mr. Soloway stated: The way I've looked at it is if they are constructing something on that side even if they are just extending the existing wall then they need a variance. But if they are not creating anything, then it doesn't create a need for a variance. I'm comfortable with that.

Ms. Caldwell continued: However on the signs, we do have some issues where they will need a variance. Even though there is an existing pylon sign, because they are adding a sign they need a variance for that. The front façade sign meets the ordinance requirements. Is the canopy going to have a sign? But since you are doing the façade sign now are you still going to do a sign on the canopy?

Mr. Sabo stated: There will not be a logo on the canopy.

Ms. Caldwell continued: So we have three pylon type signs. The directional sign should be a maximum of 4 square feet but you are slightly over at 4 ½ square feet. So that requires a variance. Then you have the two free-standing signs that you are looking to use. Each one is within the 40 square feet maximum, but you are only permitted to have one. So you will need a variance for the additional pylon sign.

Mr. Soloway questioned: Is each one within the combined square footage?

Ms. Caldwell stated: No. Combined it would be over, and they have two not being permitted. However they are pre-existing and they are asking to reface those pre-existing signs. One is in the front that shows Dollar General. There is a combined square footage with the Dollar General which is over the 40 square feet but it is not delineated.

Mr. Ursin stated: Because it is a pre-existing sign we would ask for a variance if necessary. The only other thing I would say in response to the comment is the extra sign is generated by the site condition. It is an unusual circumstance in that you have the main road where the Dollar General faces you have the side road, and then you have a rear road where the traffic will go and if not for the directional sign, people might not enter the site and the right area.

Mr. Soloway stated: The real issue is do you want to give them a variance to the extent necessary because it's pre-existing as opposed to making them tear it down and putting up a smaller one.

Ms. Caldwell stated: I have no issue with any of these signs, I'm just pointing it out.

Application opened to public. None stepping forward. Portion closed.

Mr. Marion questioned: Regarding Exhibit A-1, the photo shows above the front doors "Fitness Nation" which is being removed off the current location and moved over. But then looking at the blue print there is an awning. Which is correct?

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Mr. Ursin stated: I apologize. To clarify, it will be both. It will be the Fitness Nation sign, then an awning over the door with no lighting. The only thing that is incorrect in the Architectural Plans is that at the time there wasn't a plan to transfer the sign so the architect had written in that they were going to put a Fitness Nation sign on the awning. So the sign will be there and the awning is for the purpose of showing the entrance and shielding people from rain.

Mr. Marion questioned: So with the awning if you look on the blue print, above the Fitness Nation sign is a line. Is that where the pitch starts on the roof on the awning? What does this look like?

Mr. Ursin stated: What does the awning look like?

Mr. Marion stated: Yes. There is nothing really showing the awning. I have a flat rendering.

Mr. Le Frois questioned: Where will the sign be in relation to the awning?

Mr. Ursin stated: I think your point is correct. The awning that is shown is larger than the one that is going to be built because now the sign is going to go there.

Mr. Soloway stated: So when you are looking at Exhibit A-1, it accurately depicts what you are looking to install there but there will be an awning added below the sign and above the door with nothing on the awning.

Mr. Marion questioned: Is it a metal awning? Will there be poles or posts?

Mr. Sabo stated: It is vinyl. The one that was designed has two posts.

Mr. Ursin stated: It's because Charlie Schaeffer didn't have that sign when he finished it. So you have to tell the Board what it is you want so they know what to approve. You are asking for as on A-1 the sign to be located on the building as it is in A-1. Is that correct?

Mr. Sabo stated: Yes.

Mr. Ursin questioned: Then you are asking for a vinyl awning between the sign and the door. Is that correct?

Mr. Sabo stated: Yes.

Mr. Ursin questioned: Do you need posts for the vinyl awning?

Mr. Sabo stated: No.

Mr. Ursin questioned: What color will the awning be?

Mr. Sabo stated: Black or red.

Mr. Marion stated: I think red would be good.

Mr. Sabo stated: Red is a good color.

Mr. Marion questioned: Is the Fitness Nation lettering above it illuminated?

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Ms. Caldwell stated: It is illuminated.

Mr. Wink questioned: Will there be showers at the facility?

Mr. Sabo stated: Yes. One for men and one for women.

Mr. Wink questioned: Are there any issues with the sewer there?

Mr. Ursin stated: No.

Mr. Soloway crafted a motion to approve the informal site plan to move Fitness Nation to half the other section of the building with Dollar General. Variance relief to use the existing directional signs. Variance relief required because it exceeds the allowable square footage limitation; also seeks a variance to allow the total square footage of the signage to exceed the ordinance amount and they are pre-existing signs; two free-standing signs that are both pre-existing also. The conditions would be that the HVAC be installed on the roof and not visible to the satisfaction of the Town Engineer including satisfying him that they comply with the applicable noise regulations. That the Architectural Plans be amended to make clear that there will not be a sign or logo on the canopy/awning that will be installed above the door. The awning will be red vinyl and installed underneath the Fitness Nation sign, between that and the doorway. It can be illuminated. There will be no posts. They will share the trash facility with Dollar General to the extent that it's shown on the plans. Require an as-built survey when they are done and the usual Board conditions.

**Mr. Marion made a motion to approve the application. Mr. Levante seconded the motion.**

**Aye: Mr. Wink, Mrs. Vrahnos, Mr. Levante, Mr. Marion, Mr. Le Frois**

**Motion approved.**

**The applicant requests waiving the memorialization of the resolution.**

**Aye: Mr. Wink, Mrs. Vrahnos, Mr. Levante, Mr. Marion, Mr. Le Frois**

**Motion approved.**

Mr. Soloway stated: In regards to Mr. Simmons report asking about COAH payment requirements. From my research of the ordinance which is Section 16C 6-52 and it appears to me that no fees are required. Those are only payable under the ordinance when you are doing new construction that in effect increases the building envelope.

**2018 PLANNING BOARD MEETING DATES:**

Mr. Marion made a motion to approve the dates. Mr. Wink seconded the motion.

Aye: Mr. Wink, Mrs. Vrahnos, Mr. Levante, Mr. Marion, Mr. Le Frois

Dates approved.

**INFORMATION**

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Resolution # 263-2017 – Resolution of the Town of Newton, in the County of Sussex, New Jersey authorizing the Planning Board of the Town to investigate whether a certain property at 121 Water Street (Block 10.01, Lot 4) should be designated as a "Non-Condensation Area in Need of Redevelopment".

Ms. Caldwell stated: We are currently conducting a study for the Planning Board. It is the G&H property on the corner of Water Street and South Park Drive. That used to be the location of G&H Tractor Sales.

Mr. Le Frois questioned: Are they going to do anything with it?

Ms. Caldwell stated: They will be trying to do something with it I believe.

Mr. Le Frois questioned: So this study is necessary for them to do what they want to do?

Ms. Caldwell stated: Correct.

Mrs. Vrahnos questioned: What does "non-condemnation" mean?

Ms. Caldwell stated: There are two types of redevelopment area studies now. Originally, redevelopment area studies always included the ability for the government or municipality to condemn a piece of property even if it's against the owner's wishes. So if the owner didn't want to sell they would be required to sell if it was in a condemnation redevelopment area. Now, with difficulties of litigation coming from that process the legislature updated the redevelopment area rules allowing municipalities to decide if they want to use the condemnation powers or not within a redevelopment area. In this case they did not do it because it was run by the property owner and there was no need to use the condemnation. So it takes away one objection that a property owner might have. When you are doing a redevelopment study, often it's the fear of condemnation that causes litigation. So we don't have the power to use condemnation but we do have the other benefits of a redevelopment area including payment and low taxes, tax abatement, plans specifically for the property and engage in draft negotiations and contract negotiations with the developer of the property. So it removes the major objection for redevelopment. I believe the legislature has made the process easier and less litigious.

Mr. Marion questioned: Did we have a discussion about redevelopment at this property, the Armory and the Shoprite a few years ago?

Ms. Caldwell stated: It only included the Armory and the Shoprite. This property was not included at the time.

Mr. Le Frois questioned: It's not a study of the whole area? Just the G&H property?

Ms. Caldwell stated: Correct.

**CORRESPONDENCE** – Reviewed

Resolution #213 – Appointment of John Ragsdale as an Alternate Member of the Planning Board.

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The New Jersey Planner – September/October 2017

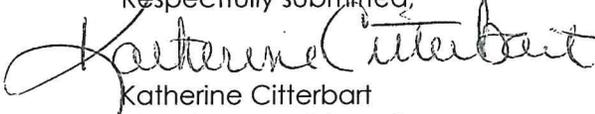
**EXECUTIVE SESSION** - None

**PUBLIC PORTION** - None stepping forward

**ADJOURNMENT**

**Mr. Marion made a motion to adjourn the meeting. Motion seconded by Mr. Wink. The meeting was adjourned at 10:15 PM with a unanimous "aye" vote.** The next meeting will be held on January 17, 2018 in the Council Chambers of the Municipal Building.

Respectfully submitted,

  
Katherine Citterbart  
Planning Board Secretary