

TOWN OF NEWTON
PLANNING BOARD
June 19, 2019
MINUTES

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

SALUTE TO THE FLAG: Was recited.

OATH OF OFFICE:

None

ROLL CALL: Was taken

Attendance: Mr. Flaherty, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Ms. Hall, Mr. Couce, Mrs. Le Frois, Mr. Flynn, Mr. Marion

Excused: Mr. Russo, Mr. Le Frois

Professionals present: David H. Soloway, Esq. of Vogel, Chait, Collins & Schneider
Jessica Caldwell, J. Caldwell & Associates
Tom Knutelsky, Harold E. Pellow and Associates

THE SUNSHINE STATEMENT: Was read.

CONSIDERATION OF MINUTES

May 15, 2019

A motion was made by Mr. Flaherty and seconded by Mrs. Le Frois to approve the May 15, 2019 meeting minutes.

AYE: Mr. Flaherty, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Ms. Hall, Mr. Marion

The motion was carried.

HISTORIC RESOLUTIONS

None

RESOLUTIONS

PERCC Group, LLC (#PB-4-2019)
Block: 18.04, Lot: 13
4-6 Pine Street
T-3 Zone

Resolution certifying a four family residence is a valid preexisting nonconforming use on the property.

A motion was made by Mr. Flaherty and seconded by Mrs. Vrahnos to approve the resolution.

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AYE: Mr. Flaherty, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Ms. Hall, Mr. Marion

Abstain: Mr. Flynn

The resolution was approved.

OLD BUSINESS

None

NEW BUSINESS

KWest Properties, LLC (#PB-3-2019)

Block 8.08, Lots 10 and 23

134 Spring Street

-Applicant requested to be carried to the July 17, 2019 meeting at 7 PM with no further notice-

The applicant is requesting a minor subdivision and site plan approval to construct a four-story building with commercial on the first floor and residential on the second, third and fourth floors.

Sussex County Community College (#PB-6-2019)

Block: 3.01, Lot: 19

SD-2 Zone

-Applicant requested to be carried to the July 17, 2019 meeting at 7 PM with no further notice-

The applicant is looking to replace their electric message board.

Nouvelle, Inc (#PB-5-2019)

Block 14.03, Lot 11.01

30 Madison Avenue

T-5 Zone

The applicant is requesting minor site plan approval for a Group Home to be constructed with variances for height and frontage.

Mr. Ragsdale is recused from application.

Matthew G. Capizzi, Esq. from Capizzi Law Offices is representing the applicant.

Mr. Capizzi stated: This is an application that seeks to build a single family residence for people with disabilities such as cerebral palsy. This is a permitted use in the zone that is allowed by statute. It is being supported by the Municipality. There is a portion of the Municipality's Housing Trust Fund that has been set aside for the development of this project. The reason we are before you this evening is the zone where this property is located, the T-5 zone, has some unique characteristics. It has a maximum side yard setback where typically we have minimums we have to adhere to. In this particular zone you can't exceed a certain side yard setback and we are in fact providing a setback greater than what is permitted. We only need a one-story residence due to the nature of the people who will be living here. The minimum height in the zone is a two-story dwelling. So we are smaller than what is permitted. That requires a need for

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a variance. The building has to be of a certain length. Because of the needs of the applicants we are proposing a building that is smaller in nature than what is envisioned in the zone. We are not seeking to build something larger than is allowed, but something smaller. Those are the three variances that are before the Board this evening. We have witnesses for the application. Ken Dykstra is the Engineer for the project.

Sworn in:

Kenneth Dykstra, 21 Bowling Green Parkway, Jefferson, NJ. Gave credentials as a NJ Licensed Professional Engineer, Planner, and Land Surveyor. He is a principle with Dykstra, Walker, Design Group. He has been practicing for over 30 years and has appeared before this Board over the years. All licenses are current.

The Board accepted his credentials.

Mr. Dykstra referenced Exhibit A1, a colorized version of Sheet 1, and stated: This is a colorized version of Sheet 1 of the Plot Plan that was submitted with the application. The plot plan was revised on May 20, 2019. The subject property is located on Madison Street. It is effectively a 100' wide lot with an average depth of 76' with a total area of 7,682 square feet. This was part of a subdivision with the adjacent lot, lot 11, a number of years ago. Lot 11 was an oversized lot with a duplex home on it. It was subdivided to create lot 11.01 which is effectively a vacant lot. At one point it had a garage on it, but now it just has a foundation for the garage. It has a curb cut on it. There was a parking area there and a walkway to the duplex home located on lot 11. Since the subdivision occurred they enhanced the parking in lot 11 and put the driveway out to Halsted Street. Basically, it is all set for development. It has a curb cut. All the utilities exist on Madison. What we're left with is this 7,682 square foot lot. It is mostly cleared. It has a couple of trees that would be impacted but other than that the lot is set for development. So that is the existing condition. The lots around it are developed as single family homes or duplexes. So this is the remaining lot in this area.

Mr. Capizzi questioned: How will it be redeveloped?

Mr. Dykstra stated: The proposal is to redevelop the lot with a 1,800 square foot home with a maximum height of 18'. The house dimensions would be 55.3' wide by 32.2' deep. It will be positioned slightly on the right side of the lot with a 7.9' right side yard setback. Then on the other side we have a 36.8' yard setback and that is the location of the driveway. It is proposed a 20' wide driveway that is about 50' deep. That will allow for the parking of plenty of vehicles. So there won't be a need to park on the street. Madison Street is very narrow. We have provided adequate parking for this property. We are going to re-pour the sidewalk entirely across the frontage. Right now the sidewalk is in poor condition. We will tear it out and create brand new curbage and sidewalk with a depressed curb and driveway entrance at the proposed driveway.

Mr. Capizzi questioned: Is the left side yard setback not conforming?

Mr. Dykstra stated: Yes. In the T-5 Zone you can build a five-story structure in this zone. I don't feel that would fit in with the character of the two-story homes in this area. So we just want to build a one-story because it doesn't make sense to have a two-story because of handicap accessibility. The house will be one-story. We have the larger setback on the left side because we need a wider driveway to accommodate parking.

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Mr. Capizzi questioned: Is it a four bedroom dwelling?

Mr. Dykstra stated: Yes.

Mr. Capizzi stated: I mentioned that the occupants will have disabilities. This facility will be operated by a State licensed facility. Will there be a caretaker onsite at all times?

Mr. Dykstra stated: Yes. There will be 24/7 care on the site. There will always be at least one staff member on the property and they will overlap shifts by 30 minutes.

Mr. Capizzi questioned: Do the occupants go to a work program during the day?

Mr. Dykstra stated: Yes. There are State programs that are available depending on their conditions. Some of the people go and do work. Some go to an off-site day program where they are cared for and have activities. We expect that most of the residents will be away from the property from 8:30 AM to 5:00 PM. They go away for the day and then come back. The operation is very similar to a typical single family home where occupants go to work or school during the day.

Mr. Capizzi questioned: As far as the front yard setbacks, the rear yard setbacks, and the height of the structure, do these conform?

Mr. Dykstra stated: Yes. The rear yard setback far exceeds the 3' requirement. The front yard conforms to the setbacks also. The height is well under a five-story building. It is basically a ranch with a floating roof

Mr. Capizzi stated: As far drainage onsite, how is that being handled?

Mr. Dykstra stated: The proposal involves constructing the house and a pad for a generator to be installed at a later date. The roof drainage will be collected and discharged to a proposed dry-well constructed behind the dwelling.

Mr. Capizzi questioned: Can you lead us through the variance criteria and justification for the three variances being requested?

Mr. Dykstra stated: This type of facility is defined as an inherently beneficial use so it promotes the general welfare of the MLUL. However, we still have to demonstrate that the variances we are requesting will not impact the zone plan or have a negative impact to the neighbors. First one is the building height. Two are required and we are only proposing one-story. Frontage buildout on a hundred foot lot, the ordinance requires being no more than 80' wide. We are only proposing 55.3'. We are only building 55%. That is less than the maximum required. Then the side yard setback, the maximum is 24' and we have a proposed 36.8' on the left side. That is to allow for the driveway. The ordinance allows coverage of 80% and this proposal only covers 43" of the lot. We are not overdeveloping the lot. We are building a less intensive development. So that means no impact to the neighbors, no detriment to the Master Plan or the Zoning Ordinance.

Mr. Capizzi questioned: Beyond the fact that this is an inherently beneficial use does this project promote any of the other purposes of zoning?

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Mr. Dykstra stated: Yes. Because we are under-developing we are providing more air/light/ and open space. Also MLUL requires that Towns designate certain areas for appropriate residential uses. This residential use promotes that purpose.

Mr. Capizzi questioned: Would you say that the benefits of granting these variances outweigh the detriments that may flow from the granting of them?

Mr. Dykstra stated: Yes. Because we are under developing this property.

Mr. Capizzi stated: As far as the intensity of use and the occupants here and that there won't be much traffic coming and going from the site, does that play into the analysis?

Mr. Dykstra stated: Yes. This facility will be a relatively quiet facility. I've seen other facilities like this in operation and I don't see any substantial detriment regarding traffic, noise, or anything else.

Mr. Capizzi stated: We received several review letters. We received one from Mr. Simmons dated June 10, 2019. If there are any development issues there are you in a position to address those items?

Mr. Dykstra stated: Yes. It mentions the one issue which is the Halsted driveway curb cut needs to be constructed according to the subdivision resolution. That's in the report. There is also mention of an encroachment on the back of this property from the neighbors. There is a wall and a lean-to shed. As far as the encroachments, they really don't affect this development whatsoever but the applicant is going to make an effort to move those encroachments off the property.

Mr. Soloway questioned: Is the applicant ready to comply with all the recommendations set forth in this report?

Mr. Dykstra stated: Yes. We are.

Mr. Capizzi stated: We also received a letter as a result of our TRC meeting on May 15, 2019. I believe we addressed most of the issues that were raised during the TRC meeting but in the event that we missed one, we can clearly amend our plans as necessary to address any open items. Correct?

Mr. Dykstra stated: Yes. I think we covered everything already. There was one comment about driveway detail being added to the plan. That is no problem.

Mr. Marion questioned: What is the floor plan?

Mr. Dykstra stated: Four bedrooms, two bathrooms, a laundry and a kitchen area. It is a typical residential home layout.

Mr. Marion questioned: The driveway looks two cars wide and two cars deep. Do the residents drive?

Mr. Dykstra stated: Never.

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Mr. Marion questioned: Why the large driveway?

Mr. Dykstra stated: That is for the staff, two or three, and the vans that pick up the residents, as well as the space to maneuver around.

Mr. Flaherty questioned: Is the parking area going to be paved?

Mr. Dykstra stated: Yes. Concrete apron and sidewalk and then a paved driveway.

Mr. Marion questioned: Will the shed foundation in the back be removed?

Mr. Dykstra stated: Yes. The garage foundation will be removed.

Mr. Wink questioned: Will there be landscaping?

Mr. Dykstra stated: There is no landscape plan necessary when building a single family dwelling.

Mr. Soloway stated: The only reason they are before the Board is because of those three variances. A residential single family does not require site plan approval.

Mr. Soloway continued: You mentioned before that this project has the support of the Town.

Mr. Dykstra stated: Yes.

Mr. Soloway questioned: Have you entered into some kind of pilot program with the Town?

Mr. Dykstra stated: That is correct.

Mr. Flynn questioned: Is that agreement forthcoming?

Mr. Capizzi stated: It is not completed yet.

Portion opened to the public.

1st Public: Erwin Irving, 38 Halsted Street. Is there a maximum occupancy? Is it possible that someone or all four could be married couples? Is there a potential for offspring?

Mr. Dykstra stated: I'm not aware of what the qualification requirements are from the service provider, whether they are required to be single occupants. Generally speaking they are single occupants that come to this facility. In the event that someone becomes disabled after getting married I wouldn't rule out the possibility that there could be a couple. But I would think it was extremely rare.

Mr. Irving questioned: Will this always be this type of use at this building?

Mr. Dykstra stated: It will be deed restricted to this type of use for 30 years.

2nd Public: Sandy Irving, 38 Halsted Street. Who is the service provider?

Mr. Dykstra stated: Capitol Care in Stanhope, NJ.

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Mrs. Irving questioned: How many years of successful facilities like this exist for them?

Mr. Dykstra stated: Generally I don't know. But it was submitted to the Town Council and they reviewed it.

3rd Public: John Mills, 57 Madison Street, Newton. Will this be a ratable?

Mr. Capizza stated: It will take off taxes.

4th Public: Kim Brown, 59 Madison Street, Newton. You say that this is a "pilot program". What do you mean by that?

Mr. Soloway stated: When you are developing it is to do with taxes. It is not a test run.

Ms. Brown questioned: Is this just people with physical disabilities, not mental?

Mr. Capizzi stated: Correct. It is just for people with Cerebral Palsy.

Ms. Brown questioned: Will it ever be extended to people with mental disabilities?

Mr. Capizza stated: No.

Mr. Knutelsky reviewed Mr. Simmons report date June 10, 2019 and stated: Page two of the report, item 5, the existing slate walkway will be removed by the applicant. It is indicated on the plans that they are doing that. Item 6, the lean-to shed in the back has an encroachment. It will attempt to be corrected by moving to a position that it is not encroaching. It does not have an impact on the development itself so it is not essential that it has to be corrected. It's an encroachment on this property and not the other way around. But they said they will make an attempt to correct it. Item 7, there is a dry well that will be added to the back of the property to mitigate stormwater from the new development. This property and the amount of disturbance from the site do not render a full stormwater review. What the applicant is attempting to do with 1000 gallon dry well is to store as much properly and infiltrate it into the ground. So instead of affecting other properties it is now being collected. Mr. Simmons requires in his report that we do a test hole in the area and the applicant has agreed to do that. Item 8, the concrete apron detail for the 6" thick concrete sidewalk driveway entrance has been added to the plans and will be used by this particular development as well as lot 11 on Halsted where the apron and driveway needs to be reconstructed. This is highlighted in item 9, where we indicate it has to be done to the Newton DPW satisfaction. Item 10 refers to various items that have to be complied with in terms of jurisdictional review.

Mr. Marion questioned: So you are doing the apron for your house and the one for the house next to it that comes out onto Halsted?

Mr. Dykstra stated: That's correct.

Ms. Caldwell reviewed her report dated June 11, 2019 and stated: My report reviews the variances of the proposal. There are three variances being requested. The first is side yard setback requirements. The maximum is 24' and they are proposing 36.8' to accommodate the extra-large driveway for van access. There is a minimum frontage buildout of 80% and they are

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proposing 55%. Primarily because it will be a single family ranch style building. This takes us to the next variance which is minimum building height. It is a two-story minimum and they are proposing one-story. It is a group home type facility that is permitted by MLUL as a single family residence. The applicant came to the Town Council with a request to utilize some of the Housing Trust Fund. The municipality has Affordable Housing to provide the applicant to construct the facility. The variance they are proposing is known as a C2 variance or public benefits variance. As the applicant noted it is a permitted use in the MLUL. They have to show the positives outweigh the negatives and that there is no negative impact to the neighborhood, the Master Plan or the zoning ordinance. The applicant showed this in their testimony. The other item we discussed in the TRC was that at the Council level the applicant would have a "Payment in lieu of Taxes" (aka PILOT). Because they are non-profit and not required to pay taxes they are willing to pay us to help with cost to the Town. That is part of the agreement with the Town Council.

Mr. Marion questioned: Will there be any signs or will it just blend in to the neighborhood?

Mr. Dykstra stated: There will be no signs.

Mrs. Le Frois provided detail on the Affordable Housing Trust Fund commitment and the PILOT program.

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

Mr. Flynn made a motion to approve the application. Mr. Flaherty seconded the motion.

Aye: Mr. Flaherty, Mr. Wink, Mrs. Vrahnos, Ms. Hall, Mr. Couce, Mrs. Le Frois, Mr. Flynn, Mr. Marion

Recused: Mr. Ragsdale

Motion carried.

Mr. Soloway stated: The applicant indicated that they are facing deadlines in regards to funding. They have asked that the resolution be prepared for the night of the hearing. I have prepared it and have it for you to vote on tonight.

Mr. Marion stated: We will take a ten minute break to review the resolution.

The Board returned from reviewing the resolution.

Mrs. Le Frois stated: On page 2, number 2, I believe it should say that the facility will be operated by a State licensed and group operator and there will ALWAYS be at least one staff person onsite as opposed to ONLY be. Is that correct?

Mr. Soloway stated: It should be ALWAYS.

Mr. Flaherty made a motion to approve the resolution with the one change of "always" instead of "only". Mrs. Vrahnos seconded the motion.

Aye: Mr. Flaherty, Mr. Wink, Mrs. Vrahnos, Ms. Hall, Mr. Couce, Mrs. Le Frois, Mr. Flynn, Mr. Marion

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Resolution approved

CORRESPONDENCE: -

None

EXECUTIVE SESSION -

None

PUBLIC PORTION -

None

ADJOURNMENT

Mr. Flaherty made a motion to adjourn the meeting. Mrs. Vrahnos seconded the motion. The meeting was adjourned at 8:04 PM with a unanimous "aye" vote. The next meeting will be held on July 17, 2019 in the Council Chambers of the Municipal Building.

Respectfully submitted,

Katherine Citterbart
Planning Board Secretary

