

TOWN OF NEWTON
PLANNING BOARD
DECEMBER 21, 2016
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.

SALUTE TO THE FLAG: Was recited.

OATH OF OFFICE:

Sworn in: Thomas Butterfield, Alex Majewski

ROLL CALL: Was taken

Attendance: Mr. Flaherty, Mr. Marion (arrived late), Mr. Ricciardo, Mr. Russo, Mrs. Diglio, Mr. Levante, Mr. Butterfield, Mr. Majewski, Chairman Le Frois

Excused: Mr. Hardmeyer, Ms. Larsen

Professionals present: David H. Soloway, Esq. of Vogel, Chait, Collins & Schneider; Jessica Caldwell of J. Caldwell & Associates; Paul Ferriero of Ferriero Engineering

THE SUNSHINE STATEMENT: Was read.

CONSIDERATION OF MINUTES

October 19, 2016

A motion was made by Mrs. Diglio and seconded by Mr. Ricciardo to approve the October 19, 2016 meeting minutes.

AYE: Mr. Ricciardo, Mrs. Diglio, Mr. Levante, Chairman Le Frois

The motion was carried.

HISTORIC RESOLUTIONS

None

EXTENSION OF TIME

Robert Occhinfinto (PSPV-05-2012)
42 Hicks Avenue
Block 20.02, Lot 1

Applicant requesting second extension of time to October 17, 2017 for preliminary site plan approval granted on October 17, 2012.

Applicant contacted Mrs. Citterbart requesting that extension be adjourned to January 18, 2017.

RESOLUTIONS

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The Samaritan Inn, Inc. (#PBSP-9-2016)
Block 15.01, Lot 47
21 Union Pl.
T-5 Zone

The resolution grants minor site plan approval and variance relief for the installation of an emergency generator.

Mr. Ricciardo made a motion to approve the resolution. Motion seconded by Mr. Levante.

AYE: Mr. Ricciardo, Mrs. Diglio, Mr. Levante, Chairman Le Frois

Motion carried.

OLD BUSINESS

None

NEW BUSINESS

Martorana (#PBASP-12-2016)
104 Sparta Avenue
Block: 22.03, Lot: 13.01 & 13.02, Zone: SD-4

The applicant is requesting an amended site plan for modifications to 16 end units of a previous approved plan for 54 townhouses.

Anthony Fiorello is representing the applicant.

Mr. Fiorello stated: Martorana Enterprises received final site plan approval some time ago and has already embarked upon construction of 54 townhouses located in nine buildings to be constructed in three phases. There's a conversion of an existing office building into a community center for the condominium association and 6 low to moderate income housing units. The applicant proposes that he be allowed to convert 16 end units from a two car garage to a one car garage, thus permitting him to offer expanded living quarters. Marketing the premises indicates that many purchasers want expanded living quarters instead of a two car garage. The garages are located in end units. In building one, two, three in Phase 1; building 4 and 5 in Phase 2; building 6, 7 and 8 in Phase 3. There are no two car garages in building number 9. There are no garages in the community center or the low to moderate income housing. Mr. Martorana will indicate that there is nothing to be changed in the footprint of the building, or the height of the building. There are no variances connected with it. They are merely interior changes consistent with the elimination of one garage and increasing the floor space in the living room to accommodate potential buyer's preferences. Mr. Martorana and Mr. Stimmel, the engineer, will testify and address comments made by Mr. Ferriero in his report to us.

Mr. Greg Martorana is sworn in.

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Mr. Fiorello questioned: Are you a principle in connection with the construction of Grande Villaggio in Newton?

Mr. Martorana stated: Correct.

Mr. Fiorello questioned: Did you receive approval for 54 townhouses on this property to be contained in 9 buildings to be constructed in three phases?

Mr. Martorana stated: Yes.

Mr. Fiorello questioned: The first phase would have three buildings; the second phase would be buildings 4, 5 and the COAH units. In phase three would be buildings 6, 7, 8 and 9. Is that correct?

Mr. Martorana stated: Yes.

Mr. Fiorello questioned: The two car garages are in the end units in buildings 1, 2, 3, 4, 5, 6, 7, and 8 and they comprise a total of 16 units. Is that correct?

Mr. Martorana stated: Yes.

Mr. Fiorella questioned: In those units, you are looking to have the option to eliminate one of those two car garages and instead increase the square footage of living space interior to each of those buildings. Correct?

Mr. Martorana stated: Yes. I would like to make it a living room or a rec room.
Mr. Marion arrived at 7:15 PM.

Mr. Fiorella questioned: Are there any other plans? Any changes in landscaping or anything else?

Mr. Martorana stated: No.

Mr. Fiorella questioned: Will you be putting plantings and landscaping in front of the area that would have been a garage?

Mr. Martorana stated: Yes. There will be plantings.

Mr. Fiorella questioned: Parking will be for the elimination of the one car garage. One car would be parked in the garage and one behind it?

Mr. Martorana stated: Yes. It would be stacked.

Mr. Fiorello questioned: There are currently 167 spaces. Only 124 spaces are needed for the units, and 43 guest spaces. Is that correct?

Mr. Martorana stated: Yes.

Mr. Fiorello stated: I have nothing further for Mr. Martorana.

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Mr. Flaherty questioned: Could the space be utilized as a bedroom?

Mr. Martorana stated: No.

Mr. Ricciardo questioned: Why not?

Mr. Martorana stated: Because the end units are already 3 bedrooms. Plus, the predominate question was "where can we watch TV and relax?". The kitchen is very small. It is an open area that leads into a small dining room. There is currently nowhere to put a living room. All the bedrooms are on the second floor. The end units basically have one large kitchen area that can be separated to have a dining room. But there is no living area.

Mr. Marion questioned: Will the existing building stay the way it is and the future building will have this option?

Mr. Martorana stated: Correct. It is just for the future buildings. We are not changing what is already there.

Mr. Le Frois stated: So it wouldn't be for 16 units. It would be 14.

Mr. Fiorello stated: We would like to amend our application to 14 units.

Portion of the application opened to the public for clarification from Martorana. No public stepping forward. Portion closed.

Mr. William Stimmel, PO Box 280, Rutherford, NJ. He gave his credentials as licensed engineer in the State of NJ and stated that his license is current. The Board accepted his qualifications.

Mr. Fiorello questioned: Regarding the plan to convert end units from two car garages into one car garages and living space, can you indicate to the Board the plans you have drawn to encompass that proposal?

Mr. Stimmel referenced Exhibit A1, dated 12/21/2016, and described the modifications: The plan I'm presenting is based on the site plan approval that was prepared by Mr. Thomas Donahue. The exhibit shows building 2 as represented by Mr. Donahue's plan. You have the two family units in the middle of the building and the end units are the three bedroom units. As approved, each of the end units had a two car driveway and two car garage. The proposed modification is to eliminate the outer portion of the garage on the ends of the end unit and keep the inside garage space. So you would have one garage space with a 10' wide driveway leading to it. Then you would have two driveway spaces with the overall 20'. Everything else would stay the same. There's a small portion in front of the area where there will no longer be a garage door. A 2' depth and 10' width. It will be converted to landscaping so it is clear to anyone pulling in that there is no driveway access at that location. That leaves a length of 18' between the front of the landscape bed to the nearest point of the sidewalk. Eighteen foot length is the minimum standard for residential parking. The parking space in the driveway will continue to be 2' x 20'. The landscape plan shows the proposed plantings through this location. We are proposing decorative grass and flowering evergreen shrubs with a yellow flower in the summer season, subject to any recommendations or preferences made by the Board. Nothing else is changing with the units. It's just the minor change to the garage spaces in 14 of the units.

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Mr. Fiorello questioned: Does the modified parking comply with ESI standards?

Mr. Stimmel stated: Correct. The requirements for residential parking on each of the parcels are 125.8 spaces whereas 167 are proposed and there are the additional visitor parking spaces that are not changing as a result of this amended application.

Mr. Fiorello questioned: Are there any changes in any of the engineering or site work that has been previously approved? For instance, the ingress, egress, traffic, elevation, grading, drainage, utilities, or landscaping, or variances associated with this application?

Mr. Stimmel stated: No changes. Everything is remaining the same.

Mr. Ricciardo questioned: If a future tenant wants to keep the two car garage will you let them?

Mr. Stimmel stated: Yes.

Mr. Le Frois questioned: The architectural drawings we received as part of our package do not seem to be the same as what you have.

Mr. Martorana stated: Scheme A is correct. This is what we are presenting.

Mr. Soloway stated: To clarify, in the architectural plans that were submitted with the application, Scheme A is correct and Scheme B should be ignored. If the Board approves this, do you have any objection to the conditions that your architect revise that plan and get rid of scheme B?

Mr. Martorana stated: No objection. We can do that.

Mr. Ferriero reviewed his report dated December 14, 2016 and stated: The first page is a list of the documents submitted. The second page relates to completeness; items which essentially I recommended waivers for in TRC. The third page was addressed in Technical Review. In my opinion the applicant's engineer has gone over and addressed all these items to my satisfaction. Based on the new plan submitted tonight, there are a couple of tweaks. As we heard there are 14 units not 16 units. That's a minor change on the calculation sheet for the parking. Another thing is that we have a better and cleaner architectural plan. Other than that, all the other items in my report have been addressed.

Ms. Caldwell reviewed her report dated December 15, 2016 and stated: Essentially, I reviewed the RSIS standards which the engineer addressed. There is a half a space per unit that is included in the overall parking requirements and it is in the off-street spaces. There are 27 required and they have 43 in their plan so they have an excess. Also noted is that as a separate entity the community center and the low to moderate housing have their own parking area so it's not affected by this. I have a question about the 2' planting bed and if the 18' was long enough and this was confirmed by the applicants and our engineer. The architectural plans show that the overall façade is satisfactory in appearance.

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

Mr. Marion questioned: Regarding the elevation height of the new room will there be enough room for a crawl space underneath?

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Mr. Martorana stated: It is not planned for. Each building has differing elevations.

Mr. Ricciardo stated: Hearing that the whole interior is a slab on grade and you're building above it and it will be closed in with the appropriate fire rated material.

Mr. Flaherty stated: Even if you have 30" from the garage floor to the first floor, by the time you put the structure in there you aren't going to have a meaningful crawlspace there.

Mr. Marion stated: That answers my question. Thank you.

Application opened to the public.

1st Public stepping forward: Charles Briggs, 73 Pine Street. He complained about the brightness of the street lights on Martorana property in front of the building that is up now. Says they are like Times Square on New Year's Eve. He needs to have his blinds closed all the time. Can our engineer look at the lumen and turn them down? Nice job of planting shrubs but there aren't enough.

Mr. Le Frois stated: This has nothing to do with this application.

Mr. Ricciardo stated: I understand your complaints, but this is a work in process. At the end of the project, if you still have the same complaints that would be when you should address it. Nothing can be done until the project is complete.

2nd Public stepping forward: JoAnn Ream, 69 Pine Street. Concerned that she moved into her home and was not informed by her real estate agent that there was going to be a project. She came to the meetings 6 years ago and the project is still not complete. She understands that it is ongoing, but where is the homeowner's relief in having to see this project ongoing for 6, 10, or 20 years as the property values go down and she can't sell her house? When is the end date?

Mr. Le Frois stated: I will try to address some of your concerns. There is plenty of information about what the project involves which is available through the Town and the Martorana website. The project will take however long it takes to complete. As long as they are actively working on the project and it's not abandoned then there is nothing the Planning Board can do. I'm not sure what you mean about "relief" but the application process they went through addressed the public concerns as much as possible as far as landscaping, building layouts and things like that. There are certain things they need to do and can do as owners of the property because they have a business interest. Typically you can't infringe upon their ability to make money, build a house and sell it. So the plans as currently envisioned and the phasing has all been discussed in the previous application process and has been approved.

Ms. Ream continued: It was not explained during the first application that it was going to be a 20 year process. Property values are already low, and now when someone comes to look at my property they are going to see this project which lowers the value even more.

Mr. Ricciardo questioned: Have either of the speakers contacted Mr. Martorana directly?

Both speakers have not.

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Mr. Ricciardo stated: Knowing how they conduct their business, they are good people and good neighbors and you should let them know what you feel the problems are and see if you can come to a resolution together.

Mr. Fiorello stated: Mr. Martorana got a letter from someone on Pine Street complaining about lights. He immediately went to JCP&L to request that three of the lights be decommissioned. Greg can explain it better than I.

Mr. Martorana stated: There was a question about lighting issues on the property. I received a letter from a neighbor and wrote back and pinpointed where the lights were. The lights in her complaint had nothing to do with me. People think I am in control of all the lights on the property because we own the property, which is incorrect. I wrote to JCP&L twice. They finally removed the three on my property in September. Two of the lights were on Sparta Avenue and those are County lights. A few other lights are on the strip mall on my property. I asked my tenants to dim or remove them including the pylon light. They were on the building when I bought them. I don't maintain the lights or pay for the electricity for the lights. Legally I can't do anything about them. I asked Quick Check for number to call corporate and I further went to ask the person if they would like to call Quick Check corporate office to voice a concern I will give you the number today. To this point, I do not believe she did this. I went to every tenant I could within my power. JCP&L lights were taken off. The other two lights in the warehouse were taken off. That was within my power.

Fiorello stated: As you can see Mr. Martorana was responsive. The lady wrote a nice letter back thanking him for his effort. Once the project is complete, none of those lights will be visible.

Mr. Le Frois stated: I suggest that anyone complaining should write a letter to Mr. Martorana and indicate what the issues are.

Mr. Fierro stated: It's a work in progress.

No more public stepping forward. Portion closed.

Mr. Soloway crafted a motion to approve the application for site plan amendment and all previous conditions continue to apply, architectural plans be amended to eliminate Scheme B and accurately describe the proposal to the satisfaction of the Board Engineer. There should also be a condition to revise the engineering plans based on the testimony tonight to show that potentially 14 rather than 16 units are going to be affected and to revise the parking data and calculations accordingly. I recommend that there be a condition that the additional living space if the buyer elects that as an option be prohibited in utilization as a bedroom because that throws everything off. The landscaping should be to the satisfaction of the Board Planner and the Board Engineer.

Mrs. Diglio made a motion to approve the application. Mr. Russo seconded the motion.

AYE: Mr. Flaherty, Mr. Marion, Mr. Ricciardo, Mr. Russo, Mrs. Diglio, Mr. Levante, Mr. Butterfield, Mr. Majewski, Chairman Le Frois

Motion carried.

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Mr. Fiorello requested that the Board waive the waiting period for resolution adoption so to allow the applicant to seek the building permit within that time frame.

Mr. Soloway stated: To clarify, it is not waiving the resolution it's allowing the applicant to proceed to try to implement the approval in advance of the adoption of the resolution. There will still be a resolution and if the Board does authorize that it's understood that the applicant proceeds completely at their own risk and if there's a challenge or a problem later, it's their problem.

Moved by Mr. Ricciardo, seconded by Mr. Levante.

Aye: Mr. Flaherty, Mr. Marion, Mr. Ricciardo, Mr. Russo, Mrs. Diglio, Mr. Levante, Mr. Butterfield, Mr. Majewski, Mr. Le Frois.

2017 Meeting Dates:

January 18, 2017
February 15, 2017
March 15, 2017
April 19, 2017
May 17, 2017
June 21, 2017
July 19, 2017
August 16, 2017
September 20, 2017
October 18, 2017
December 20, 2017
January 17, 2018

*No meeting in November due to the League of Municipalities Convention.

Mr. Marion made a motion to approve the 2017 meetings. Mrs. Diglio seconded the motion.

Aye: Mr. Flaherty, Mr. Marion, Mr. Ricciardo, Mr. Russo, Mrs. Diglio, Mr. Levante, Mr. Butterfield, Mr. Majewski, Mr. Le Frois

DISCUSSION – Krogh's by David Soloway, Esq.

Mr. Soloway stated: The applicant submitted a letter to me dated December 6, 2016. Essentially his complaint relates to language in the original resolution. The resolution was drafted using the testimony of the Brew Master that was summarized. "Depending upon the strength of the particular brew, the applicant is permitted by regulation to serve up to a pint to each patron". The request is to eliminate that sentence. I don't know if it's because its inaccurate or because the State has an impression that it's a condition that the Board imposed. When I drafted this I did so from my notes, which are usually quite accurate. The meeting minutes, which are not verbatim, do not exactly say that. It is not a condition of the approval. It's just a summary of the testimony. It was not intended to impose a standard on the applicant that there is a one pint limit. I assume the standards are applied by State authorities. He wants the sentence removed and the resolution revised.

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Discussion ensued.

Mrs. Diglio stated: I suggest that we just replace the sentence with what the client says in the letter. "Dependent upon the strength of the brew, the client is required and will comply with all State regulations governing consumption".

Mr. Soloway stated: Ok. I will delete the original sentence and rewrite it based upon what they have in their letter.

Mr. Marion and Mr. Russo agreed to the corrective resolution.

CORRESPONDENCE - Reviewed

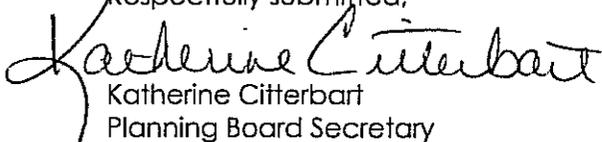
EXECUTIVE SESSION - None

PUBLIC PORTION - None stepping forward

ADJOURNMENT

Mrs. Diglio made a motion to adjourn the meeting. Motion seconded by Mr. Russo. The meeting was adjourned at 8:16 PM with a unanimous "aye" vote. The next meeting will be held on November 16, 2016 in the Council Chambers of the Municipal Building.

Respectfully submitted,


Katherine Citterbart
Planning Board Secretary