

TOWN OF NEWTON  
PLANNING BOARD  
JUNE 21, 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. Flaherty, Mr. Levante, Mr. Majewski, Mr. Wink, Mr. Le Frois

Excused: Mrs. Larsen, Mr. Marion, Mr. Butterfield, Mr. Russo, Mrs. Diglio

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

Condolences will be sent on behalf of the Board to Mr. Marion on the passing of Mrs. Marion.

**CONSIDERATION OF MINUTES**

May 17, 2017

**A motion was made by Mr. Levante and seconded by Mr. Majewski to approve the May 17, 2017 meeting minutes.**

**AYE: Mr. Flaherty, Mr. Majewski, Mr. Wink, Mr. Levante, Mr. Le Frois**

The motion was carried.

**HISTORIC RESOLUTIONS**

None

**RESOLUTIONS**

**Water Street & North Park Drive, LLC (#PFSP-4-2017)  
Block 3.03, Lot 3  
2 North Park Drive**

This resolution is granting Site Plan and Bulk Variance approval to construct a 10,319 square foot addition to an existing building.

**A motion was made by Mr. Flaherty and seconded by Mr. Wink to approve the resolution.**

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**AYE: Mr. Flaherty, Mr. Majewski, Mr. Wink, Mr. Levante, Mr. Le Frois**

The resolution was approved.

**OLD BUSINESS**

None

**NEW BUSINESS**

**One Summit Avenue, LLC (#PBWSP-01-2017)**

**Block 4.05, Lot 21**

**1 Summit Avenue**

**T-3 Zone**

The applicant requests to install an emergency generator.

Mr. William Hinkes, Esq. of Hollander, Strelzik, Pasculli, Hinkes, Wojcik, Gacquin, Vandenberg & Hontz, LLC represented the applicant.

Sworn in: Jason Dunn of Dykstra Associates, 11 Lawrence Road, Newton, NJ. Professional Planner and Engineer; Tom Sansone of T&R Alarms and Electric, 189 Sargent Avenue, Clifton, NJ. Electrical Contractor.

Mr. Soloway stated: The Board has previously accepted Mr. Dunn's qualifications as an engineer, landscape architect, and professional planner.

Mr. Sansone stated his qualifications as an Electrical Contractor since 1971 and he has installed about 100 generators.

Mr. Hinkes stated: The ordinance requires minor site plan approval with any emergency backup generators for a commercial property. This is a commercial property but it is also a medical care center and by State law required to have a backup generator. In our view, this application is in every way conforming. We have some dialog with the Board anticipated tonight about the fencing for that because that is required in your zoning ordinance. We want to make sure we meet the spirit as well as the letter of your law. Mr. Dunn, please reveal the placement of the generator to the Board.

Mr. Dunn introduced Exhibit A-1 dated 6/21/2017, a colorized version of minor site plan and stated: The generator would be located in the "L" of the building which is the east side. There is a set of stairs that leads down to the utility area of the basement and about three feet from the edge of the building wall. Currently this space is blockaded with some bollards and a barbeque grill. It's occupied already. It would reduce the amount of parking that is available back there. It would be a benefit to have the generator. We are also proposing three bollards to protect the generator. It is a 60 kilowatt generator that will be diesel-fueled. The tank would be located underneath the generator and would contain enough fuel to keep the generator running for 48 hours straight. It would only be used for emergencies when there are power outages. It will also be run for exercise. The ordinance has some limitations as to when and how they can be run during daytime hours. We will comply with that. There are also limitations as far as decibel

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ratings at the property line. We have evaluated the decibel ratings and the applicant has also chosen a generator and noise attenuation system which is above and beyond what the usual is. It's called a level 2 enclosure which has insulated interior walls. It also has a hospital silence muffler. It helps reduce the decibel ratings. At 23 feet away from the generator the decibel rating is 62 decibels. We have a letter from the manufacturer that was not submitted with the application which clarifies that.

Mr. Dunn presented Exhibit A-2, a letter to Tom Sansone from Joseph Prizzo of ENER-G Rudox Incorporated: It explains more technically, the 62 decibels at 23 feet. The property line is 26 feet, so it would be a little less than 62 decibels at the property line. The ordinance doesn't allow anything over 65 during daytime hours. The ordinance for generators requires screening if it is adjacent to residential properties or if it is in view from residential properties. This would have some views from the residents at lot 22, block 4.05 to the east and also the existing apartment buildings on lot 17, block 4.05 to the southeast of the generator. The issue related to screening is that we can't put any vegetation out there because it is a shared access and parking situation between the apartment building and the Valley View Care Center so we couldn't obstruct that pavement area with plantings or a fence to blockade the view from the apartment building to the generator. For the house on lot 22, block 4.05, we could fence along the property line that would help block the view of the generator from the northeast viewing the generator to the southwest. We could offer along the property line of lot 22 and lot 21, about 20' of a 6' fence, board-on-board or PVC fence that would be appropriate and that would help meet the spirit of your ordinance.

Mr. Soloway questioned: Along the boundary line of what properties?

Mr. Dunn stated: Lot 22 and the property in question lot 21.

Mr. Dunn stated: There are photos in the packet that show the location in the back. Behind the steel trash enclosure is some vegetation. That's the area where the fence would go.

Mr. Levante questioned: Is there a fence between the two properties now?

Mr. Dunn stated: No, there is not. There is a garage at the southwest corner of lot 22 so that helps screen some of the other areas. But we would like to extend that fencing along the property line to help comply with your ordinance.

Mr. Hinkes presented Exhibit A-3, Valley View Care Center Site Plan for Proposed Electrical Generator Location and Mr. Dunn stated: The top part is the site plan with more detailed dimensions. The bottom portion of the sheet the Board has not seen in the application packet which is the section of the footing where the concrete pad of the generator will go. Also, Elevation I and Elevation II shows how the generator height relates to the building.

Mr. Flaherty questioned: Wouldn't it be simpler just to screen this than go through all the fencing? Put some screening outside of the bollards?

Mr. Dunn stated: That is something we can do. It does need proper ventilation. Maybe Mr. Sansone can speak more about this. The concern that comes with it is that it has to be removable for maintenance purposes.

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Mr. Levante stated: I would like to make it as easy as possible to make this happen. I don't see a need for the screening around it given the way the site looks already. I don't know that a fence is necessary, in my opinion.

Mr. Le Frois stated: The ordinance calls for it.

Mr. Levante questioned: Could we waive that requirement?

Mr. Soloway stated: Yes you can. But I am uneasy about it. If you give a variance on an application where there is no notice, it's a bit shaky.

Mr. Hinkes stated: What we might consider doing, if the Board's amenable to this, we could hold off on the fence and let the professionals come up with something between now and the time of construction that satisfies the ordinance. Possibly the engineer could say whether it's feasible.

Mr. Soloway stated: The proposal is that you will do the fence that you've proposed but you're agreeable to a condition in the alternative screening to the satisfaction of the Town Engineer and the Town Planner.

Mr. Hinkes stated: Ok. That works.

Mr. Hinkes questioned Mr. Sansone: Please describe the generator.

Mr. Sansone stated: It's a diesel generator. The State calls for an emergency backup when Sandy happened the gas disappeared so diesel is the best. It will give you the most power. When the power goes off, it will automatically switch over and turn on critical circuits in the building, which will be 90% of the circuits. Every once in a while we will have to exercise the generator. Someone will have to go up there, turn it on, and test the generator once they check with the DCA to see if the air quality is ok to test the generator. That's it. The power goes off, the lights come on, and everything works within a prescribed amount of time about 5-10 seconds.

Mr. Wink questioned: Why diesel over gasoline?

Mr. Sansone stated: We looked at a small generator using natural gas. We wanted more power so we needed to go up to a diesel. The diesel is the most efficient way to go.

Mr. Wink stated for the record: I wanted to let the Board know that Mr. Hinkes and I know each other as acquaintances.

Mr. Le Frois questioned: Are there any issues with that?

Mr. Soloway stated: No. As long as the relationship isn't close enough that it would impact your objectivity.

Mr. Wink stated: Not at all.

Mr. Le Frois questioned: Is the housing for the generator aluminum colored or painted?

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Mr. Sansone stated: I'm really not sure of the color. I don't have the paint chips with me right now. I'm pretty sure it's painted.

Mr. Le Frois stated: It says full aluminum weather protection and superior sound attenuation.

Mr. Sansone stated: I don't want to swear that it's painted, but they usually are.

Mr. Majewski questioned: How often does it need to be maintained?

Mr. Sansone stated: Once a month.

Mr. Le Frois questioned: Do you have any thoughts on our possible idea of putting a fence coming off the corner of the building just outside the bollards? As long as it's not a tightly closed fence.

Mr. Sansone stated: Probably not going to be a problem at all. We need to be able to work around the whole generator. So we would just have to leave space. We would check with the manufacturer at that time and see how much space we have so we don't have a problem.

Discussion ensued.

Mr. Le Frois stated: That might be the easiest way to screen it from everywhere. That way you don't have to worry about trying to put fence on the property line there, worry about not protecting the view from the apartments, etc. You could still keep bollard protection just inside the fence and if somebody smacks into it, the fence might get destroyed but the bollards would keep them from hitting the generator itself.

Mr. Wink questioned: Is a diesel tank proposed?

Mr. Sansone stated: Yes. It is a double wall tank with a 48 hour usage.

Mr. Le Frois questioned: Do you know if Valley View is planning on performing the tests themselves or hire it out?

Mr. Sansone stated: We don't know. We will offer that service but we will train them if they want to do it on their own.

Mr. Simmons referenced his report dated 6/14/2017 and stated: The applicant covered most of the comments in my report. I just have a couple of items. One question I have is whether the electrical wiring would be run through the building to the generator or trench through the parking lot?

Mr. Sansone stated: There's not a lot of room inside the building.

Mr. Simmons questioned: So you are not likely going to do any trenching?

Mr. Sansone stated: Probably not.

Mr. Simmons stated: The only other item I have is that the as-built be submitted at completion of the project.

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Mr. Hinkes stated: We agree to do that.

Mr. Simmons continued: The original plans had a natural gas generator. The latest plans we received tonight has the criteria for the diesel generator so that satisfies condition number 9. I agree with what the Board is considering about the fencing surrounding the generator itself with a gate for access subject to the proper clearances and ventilations of the generator. That's all I have.

Ms. Caldwell referenced her report dated 6/16/2017 and stated: Just noting that the placement of the generator is located to the side and the rear which complies with the ordinance. Also, I noted the screening from 320-34(G) does permit fencing instead of landscaping which is what the applicant is proposing. I think the fence directly around sounds like a good option. They will also need to comply with the timing of the ordinance on when to test it.

Mr. Hinkes stated: We will comply with that too.

Mr. Levante questioned Ms. Caldwell: Since you referenced 320-34(G), is there a minimum requirement for the height of that screening for the fence because this fence looks to be 6'4" tall. Is there or a maximum they would have to be?

Mr. Hinkes questioned Ms. Caldwell: Is there a minimum height required of the fence?

Ms. Caldwell stated: It's not noted in the ordinance and I would recommend that if they do fencing that they keep it at 6' even though it might be 4" possibly visible because the ordinance permits the 6' for maximum height and we wouldn't want to create any issues there. With respect to vegetation screening there's a minimum for the size of trees, etc. but they are not going in that direction. I would just say a 6' fence would be sufficient.

Mr. Levante stated: The reason I thought about possibly waiving it is because of limited visibility to cars backing up.

Ms. Caldwell stated: The applicant would need to have given notice.

Mr. Flaherty questioned: I have questions on the height and type of fencing. What kind of fence will it be?

Mr. Hinkes stated: We propose a white PVC fence. That would be stagger board so it would have ventilation.

Ms. Caldwell stated: As long as it looks like wood, then it is ok with the ordinance.

Mr. Le Frois opened portion to the public. None stepping forward, portion closed.

Mr. Le Frois summarized the resolution to grant the minor site plan application, fencing near the generator as option 1, if that doesn't work, then perhaps on the property line would work.

Mr. Soloway continued: The condition would be that the submitted design for fencing or other screening be surrounding the generator as opposed to along the boundary line. The fencing material would be white PVC and it would be staggered boards 6' in height subject to the

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satisfaction of Mr. Simmons and Ms. Caldwell. If this doesn't work, get the same kind of fencing along the boundary line between the property and lot 22 for about 20'.

Mr. Le Frois questioned: Would beige PVC look better than white against the building?

Mr. Hinkes stated: Yes. It might blend in better.

Mr. Hinkes continued: We would like to be able to waive the resolution so that we can begin the permit process. We won't be able to put this in immediately but by getting the permit as soon as we can we can go to the State with it and get the necessary approvals from the State as well.

Mr. Soloway stated: What it means is to authorize the Zoning Officer to issue a zoning permit and allow the permitting process to begin in advance of the adoption of the resolution entirely at the risk of the applicant. Another condition is that you comply with the ordinance requirements regarding when you can exercise and test the generator, you comply with DEP noise requirements which they are exempt from in an emergency. If they do trenching it would be to the satisfaction of Mr. Simmons, though it is unlikely for the electrical. An as-built, they need to revise the plans not only to incorporate the changes discussed tonight, but I don't know if the site plan notes on the generator are current in that they reflect the 60kw or the noise measurements. You submitted specs but you had notes on the plan which were not updated.

Mr. Hinkes stated: We will correct that and include it in the as-built.

Mr. Le Frois questioned the Board: Does anyone have an issue with waiving the reading of the resolution?

The Board does not mind waiving the reading of the resolution.

**Mr. Flaherty made a motion to fulfill the resolution that has the conditions that Mr. Soloway described. Mr. Majewski seconded the motion.**

**Aye: Mr. Flaherty, Mr. Majewski, Mr. Wink, Mr. Levante, Mr. Le Frois**

**Motion carried.**

**DISCUSSION** – The Town of Newton has been working with **NJ Future and Rutgers University on a Green Infrastructure Program** that explored methods for improving stormwater management by utilizing green infrastructure techniques. Louise Wilson from NJ Future and Dr. Chris Obropta from Rutgers University will be leading a training at the Town of Newton Planning Board meeting on June 21, 2017 at 7:00 PM. The training will examine how green infrastructure can be implemented during the development process. Green infrastructure can include rain gardens, pervious pavement, rain barrels, green roofs and tree wells, along with a variety of other methods. Anyone interested is invited to attend to take advantage of this free Stormwater Management Training offered to the Town of Newton by NJ Future and Rutgers University.

Louise Wilson from NJ Future presented on green infrastructure.

Dr. Chris Obropta from Rutgers University continued presentation on green infrastructure.

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Attendees: Stephen Martin, Eric Martin, George Wink, Wayne Levante, Greg Le Frois, Neil Flaherty, Alex Majewski, David Simmons, David Soloway, Jessica Caldwell, Katherine Citterbart.

Stephen Martin had several questions for Dr. Obropta.

Mr. Flaherty stated: I would like to suggest that Mr. Levante speak to the Council about the fact that the Town is on the hook for anything regarding the plan. I would suggest that the Council, in the Developer's Agreement, make sure that there's an indemnification provision for the Town should DEP say that the water management plan was not compliant.

Mr. Levante stated: I agree. I'm concerned with the infrastructure of the Town.

Discussion ensued on the potential for green infrastructure throughout the Town.

Mr. Simmons stated: Samaritan Inn called me about the emergency generator to ask if they can use the PVC fence that is there. It would be instead of the chain link fence that was approved. Is the Board ok with this if I can determine the same safety factor?

The Board is ok with this.

Mr. Soloway stated: We should make sure there is a letter in the file that the Board agreed with it. So the paper trail protects the applicant.

**CORRESPONDENCE** – None

**EXECUTIVE SESSION** - None

**PUBLIC PORTION** - None stepping forward

**ADJOURNMENT**

**Mr. Flaherty made a motion to adjourn the meeting. Motion seconded by Mr. Levante. The meeting was adjourned at 9:17 PM with a unanimous "aye" vote.** The next meeting will be held on July 19, 2017 in the Council Chambers of the Municipal Building.

Respectfully submitted,  
  
Katherine Citterbart  
Planning Board Secretary