

TOWN OF NEWTON  
PLANNING BOARD  
AUGUST 16, 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. Marion, Mrs. Larsen, Mr. Majewski, Mr. Butterfield (arrived at 7:20PM), Mr. Wink, Mr. Levante, Mr. Elvidge, Mr. Le Frois

Excused: Mr. Russo

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

**CONSIDERATION OF MINUTES**

July 19, 2017

A motion was made by Mr. Flaherty and seconded by Mr. Levante to approve the July 19, 2017 meeting minutes.

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

The motion was carried.

**HISTORIC RESOLUTIONS**

None

**RESOLUTIONS**

**Punctuated Equilibrium, LLC (ASP-5-2017)  
Block 22.04, Lots 1, 2, 3, 4, 13, 14, 15  
Diller Avenue & Sparta Avenue**

Resolution approved granting an amended site plan and temporary deviations/design waiver relief on the property.

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

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

The resolution was approved.

**Gercino Soares (#MSP-6-2017)  
Block 13.05, Lot 1  
187 Main Street  
T-5 Zone**

Resolution approved granting a minor site plan to allow a drive-through retail food establishment.

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

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

The resolution was approved.

**United Methodist Homes of New Jersey - Bristol Glen Facility (#PFMJRSP-5-2017)  
200 Bristol Glen Drive  
Block 1.01, Lot 4  
SD-7 Zone**

The resolution is granting preliminary and final major site plan approval and related variance relief for the construction of building additions on the property.

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

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

The resolution was approved.

**OLD BUSINESS**

None

**NEW BUSINESS**

**Merriam Gateway Redevelopment Plan Amendment  
Block 18.03, Lot 10  
Block 22.02, Lots 8, 9, & 10  
Block 18.02, Lots 9, 10, 11, 12, 14, 15, 16 & 17  
Block 22.04, Lots 1, 2, 3, 4, 5 (portion), 13, 14, & 15**

**Mr. Soloway recused himself. Mr. Kurt Senesky of Schenck, Price, Smith & King replaced him.**

Ms. Caldwell referenced her report dated July 13, 2017 and stated: What you have before you is a Redevelopment Plan Amendment for the Merriam Gateway Redevelopment Area. It lies on the intersection of Sparta Avenue, Diller Ave, Merriam Avenue, and Sussex Street. It covers a portion of the Town's Rehabilitation Area. There was a Redevelopment Plan created for that

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area back in 2012. This Plan Amendment has a focus on permitting a wireless telecommunication facility on the structures within the area and essentially allowing two different types of facilities. One would be a building concealed wireless communication facility which would allow for a wireless facility that's constructed entirely within an architectural feature on the building. It would be hidden behind an architectural feature on the building. The other type is a concealed roof mounted communication facility which would allow for a facility to be on a roof behind a parapet or other type of wall or façade that would hide it on top of the roof. So these are two different types of facilities that we would allow as conditionally permitted uses within the Redevelopment Plan Area. We've provided some regulations and standards for those facilities as well as new definitions. The design standards include a maximum height of 20'. A setback for any roof mounted facility of 5' from the edge of the façade. Any concealed features that would be on the exterior of the façade wouldn't be permitted to be more than 5" beyond the exterior of the façade. Any cables or wiring that would go down the side of the building would need to be concealed and the same color as the building so as not to be seen. Where any backup generators are required they would need to meet the standards of our Emergency Standby Generator section of our ordinance. Any ground mounted facilities would also need to be concealed. For applications for this type of facility would require photo simulations and visual impact analysis to ensure the facilities are concealed and would not have a visual impact on the area. We require renderings and drawings of the proposed facilities as well as some review standards for visual and aesthetic compatibility, blending with the structures, screening of any facility that is proposed, size and height of the facility, and location of the facility in regards to visual back drops. The proposed amendment would allow those types of facilities. It has been referred from the Town Council under the Redevelopment Statute where the Planning Board reviews the proposed Redevelopment Plan or Plan Amendment as in this case for consistency with the Master Plan as well as providing any comments that you have to the Town Council.

Mr. Le Frois questioned: What prompted the amendment? Is there a plan to do something?

Ms. Caldwell stated: There was a request from a specific wireless facility to potentially put something on the Merriam Gateway Apartments.

Mr. Le Frois questioned: Is it for existing buildings, new buildings, or both?

Ms. Caldwell stated: That would be for both. While there is a request from a specific provider, we want to keep it open to allow for other providers to utilize new structures as well as existing structures within the zone. We know Thorlabs owns that corner across the street. They will be putting buildings up in the future and could potentially want to utilize something and didn't want to limit it to one proposal. So we made it generic even though the request is from one specific provider.

Mr. Le Frois questioned: In the Master Plan do we have a discussion of the use of wireless facilities.

Ms. Caldwell stated: Not specifically. It is more towards design standards that they are concealing or proposing to conceal to keep everything aesthetically appealing and is consistent. The other locations where we allow things like towers are in the lower density outskirts of the municipality. This is rooftop or within a building. I've seen antennas in cupolas. There are different things that can be done.

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Mr. Levante stated: From what I have heard from the grapevine is that they want to put a water tower and have the antennas inside. Apparently, there was a water tower on top of the Merriam Gateway building years ago. So it will resemble what was there historically.

Mr. Majewski stated: What is the vision going forward? What is the scope of the work that will be done? So we can get a picture of what they are trying to accomplish by adding this amendment.

Mr. Elvidge stated: If you look at the old Sussex Merchants Bank it is not what you want to see. It is not aesthetically pleasing. They are not concealed.

Mr. Marion: I was on the Zoning Board when we approved that, if you look from the front of the building there is a trim that conceals it from the main Town view, but not from the back. There are ways to conceal it and they can do what they need to do. So it's already established in Town. Up on the water tower by the hospital there are a lot of antennas from cellular companies so I don't think it is out of the norm, as long as they can conceal it and make it look aesthetically pleasing.

Ms. Caldwell stated: In more developed areas, the wireless communications providers are looking for more dispersed, smaller systems over the larger antennas. With this specific proposal there will be a site plan that will come in for review so you can see exactly what's proposed. This has not yet been submitted.

Mr. Le Frois stated: And this only applies to this Redevelopment Area and nowhere else?

Ms. Caldwell stated: Correct.

Mr. Le Frois questioned: Will this set a precedent that we might have to follow in any future plans or requirements? If the Town Council wanted to do this in other areas of the Town, would this be something someone would point to and say they have no choice but to follow this?

Mr. Senesky stated: No. I don't think so. Your ordinances are organic and they grow and contract over time. Technology changes almost on a daily basis. I don't think this is a one size fits all type of thing.

Ms. Caldwell stated: It could provide guidance.

Mr. Majewski stated: So this just applies to the area? And anything else would need some other kind of ordinance or be revisited there.

Ms. Caldwell stated: It may require some type of ordinance or variance unless it is small enough that it doesn't have to come in for a site plan.

Discussion ensued.

Mr. Wink stated: I would like to suggest that the cables be in the back of the building whenever practical.

Mr. Levante stated: Just to alleviate some concerns from the Board, I have actually spoken to the individual who is a partner of this building and I know that his plans to renovate the

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apartments and what he's looking to have done with that property and he did mention his intent that whatever he does there with this type of cellular tower is going to be enclosed. No exposed wires and nothing that will be visible to the eye. His plan is some type of water tower or feature that was historically present in the building when it was first constructed as a factory.

Mr. Le Frois stated: That is fine for that, but we need to get in writing a general set of requirements that can apply to any applicant.

Ms. Caldwell stated: That was the intention. It could be the same building, theoretically or it could be another existing or new building.

Mr. Senesky stated: Another good reason to have these standards is if an applicant came in to place these facilities outside of this area and needed relief from the Board to do that you could refer to this set of provisions to hem it in and say we would want you to comply with a lot of these design standards.

Portion opened to the public:

1<sup>st</sup> Public – Michael Malone, 59 Trinity Street, Newton. This is the second meeting I have heard on cell towers. I haven't heard anything brought up regarding radiation and the safety of the cell towers. Has any thought been given to this? For example, JCP&L put a 500,000 volt line through the edge of Town, recently Fredon, and other townships. At the numerous meetings that JCP&L had they were talking about very low radiation but when in fact it was very high and unhealthy to human beings. Do you take that into consideration?

Ms. Caldwell stated: There are Federal statutes that limit the ability to consider radiation or radio frequency issues with cell towers. There is a lot of case law that we are not able to consider at all in our considerations related to cell towers.

Mr. Senesky stated: Every application I've seen related to cell towers, the applicant always brings and produces a radio frequency engineer who renders a report that indicates the level of emissions, what the standards are that they need to meet, etc. You always get a comprehensive report.

Mr. Senesky stated: That is required by the applicant.

Mr. Flaherty questioned: Can we require that?

Mr. Le Frois questioned: Is it required?

Ms. Caldwell stated: There's the study on whether or not the tower is needed as to whether there's gaps in service. What he is talking about though is radiation and its impact on people. This is something we can't discuss during the applications because it has been determined by the FCC that they're safe and they don't emit dangerous radiation. Any application that is denied based on that discussion is an automatic appeal back to the Board. All attorneys will tell the Board not to discuss it at all because it is an appealable issue and creates a mark on record. We are not approving a cell tower tonight but given that I don't think you can put standards in with respect to that type of issue.

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Mr. Le Frois stated: So it would not behoove us to include the need for a safety study in this amendment.

Mr. Flaherty questioned: Could we require testimony that what they are proposing complies with that standard?

Ms. Caldwell stated: Theoretically you could. They are often times provided anyway. As part of the analysis they show that they need the tower and this includes the different kinds of frequencies and the amount of emission from the antenna and the fact that it meets safety standards of the FCC and it's part of their license as well. These will be much lower, smaller facilities than an actual larger tower. We have them around town. There is one on Liberty Towers for instance.

Discussion ensued.

2<sup>nd</sup> Public – Marylou Hennigan, 17 Diller Avenue, Newton. What kind of wires are we talking about?

Ms. Caldwell stated: We don't have a specific proposal yet. The way the ordinance is written it will be on the side or the back; not the front. They will be concealed on the building with a conduit or pipe; something that is the same color as the building.

Mr. Le Frois stated: And any proposal would come in and be fully reviewed by the Planning Board.

Ms. Caldwell stated: Yes. A full site plan review with all the testimony, plan sets, and architectural drawings and everything.

No more public stepping forward. Portion closed.

Mr. Le Frois stated: I think it should be encouraged to have the wires in the back of the building.

Ms. Caldwell stated: I would encourage this as it may not always be possible.

**A motion was made by Mr. Levante and seconded by Mr. Marion to find this amendment not inconsistent with the Master Plan with a few changes in the sentence to include, "that the cabling along the building is preferable in the back, but either way in the back or side it will be enclosed in conduit and treated so that it fits nicely with the exterior of the building."**

**AYE: Mr. Flaherty, Mr. Marion, Mrs. Larsen, Mr. Majewski, Mr. Butterfield, Mr. Wink, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**The amendment was approved.**

**CORRESPONDENCE** – Reviewed

The New Jersey Planner – May/June 2017

**EXECUTIVE SESSION** - None

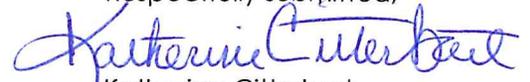
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PUBLIC PORTION - None stepping forward

ADJOURNMENT

Mr. Marion made a motion to adjourn the meeting. Motion seconded by Mr. Flaherty. The meeting was adjourned at 7:35 PM with a unanimous "aye" vote. The next meeting will be held on September 20, 2017 in the Council Chambers of the Municipal Building.

Respectfully submitted,



Katherine Citterbart  
Planning Board Secretary