

TOWN OF NEWTON  
PLANNING BOARD  
FEBRUARY 21, 2018  
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. Board Secretary Mrs. Citterbart stated there was a quorum.

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

**OATH OF OFFICE:**

Greg Le Frois – Regular Member  
Gary Marion – Regular Member  
John Ragsdale – Alternate Member  
David Simmons – Board Engineer – Sworn in  
Jessica Caldwell – Board Planner – Sworn in

**ROLL CALL:** Was taken

Attendance: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Russo, Jr., Mr. Levante, Mr. Elvidge, Chairman Le Frois

Excused: Mr. Flaherty

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

Mr. Le Frois stated the importance of calling to confirm attendance for the Planning Board meetings. If we don't have a quorum it is not fair to the applicant who has the cost of their professionals coming out to the meeting.

**THE SUNSHINE STATEMENT:** Was read.

**2018 ELECTION AND APPOINTMENTS:**

**ELECTION OF CHAIRMAN:** A motion to nominate and appoint Greg Le Frois to the position of Chairman was made by Mr. Marion and seconded by Mr. Elvidge. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Ragsdale – yes; Mr. Russo – yes; Mr. Levante – yes; Chairman Le Frois – yes. The motion carried.

**ELECTION OF VICE CHAIRMAN:** A motion to nominate and appoint Gary Marion to the position of Vice Chairman was made by Mr. Le Frois and seconded by Mr. Levante. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Ragsdale – yes; Mr. Russo – yes; Mr. Levante – yes; Chairman Le Frois – yes. The motion carried.

**ELECTION OF SECRETARY:** A motion to nominate and appoint Katherine Citterbart to the position of Board Secretary was made by Mr. Marion and seconded by Mr. Russo. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs.

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Vrahnos – yes; Mr. Ragsdale – yes; Mr. Russo – yes; Mr. Levante – yes; Chairman Le Frois – yes.  
The motion carried.

**APPOINTMENT OF BOARD ATTORNEY:** A motion to appoint David Soloway, Esq., of Vogel, Chait, Collins & Schneider to the position of Board Attorney was made by Mr. Marion and seconded by Mr. Elvidge. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Ragsdale – yes; Mr. Russo – yes; Mr. Levante – yes; Chairman Le Frois – yes. The motion carried.

**APPOINTMENT OF CONFLICT ATTORNEY:** A motion to appoint M. Richard Valenti, Esq., of the firm Morris, Downing & Sherrard to the position of Conflict Attorney was made by Mr. Marion and seconded by Mr. Russo. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Ragsdale – yes; Mr. Russo – yes; Mr. Levante – yes; Chairman Le Frois – yes. The motion carried.

**APPOINTMENT OF BOARD ENGINEER:** A motion to appoint David Simmons of the firm Harold Pellow & Associates to the position of Board Engineer was made by Mr. Russo and seconded by Mr. Marion. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Ragsdale – yes; Mr. Russo – yes; Mr. Levante – yes; Mr. Elvidge – yes; Chairman Le Frois – yes. The motion carried.

**APPOINTMENT OF CONFLICT ENGINEER:** A motion to appoint Paul Ferriero of the firm Paul Ferriero Engineering to the position of Conflict Engineer was made by Mr. Levante and seconded by Mr. Russo. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Russo – yes; Mr. Levante – yes; Mr. Elvidge – yes; Chairman Le Frois – yes. The motion carried.

**APPOINTMENT OF PLANNING BOARD PLANNER:** A motion to appoint Jessica Caldwell of J. Caldwell Associates to the position of Board Planner was made by Mr. Russo and seconded by Mr. Marion. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Russo – yes; Mr. Levante – yes; Mr. Elvidge – yes; Chairman Le Frois – yes. The motion carried.

**NEWSPAPERS OF RECORD FOR 2018:** The New Jersey Herald and the Sunday Herald as the official Newspapers of record.

**2018 TECHNICAL REVIEW COMMITTEE APPOINTMENTS:** Selection of alternate will be decided at the next meeting.

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A motion to appoint Mr. Le Frois, Board Chairman and Mr. Russo to the TRC was made by Mr. Russo and seconded by Mr. Levante. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Russo – yes; Mr. Levante – yes; Mr. Elvidge – yes; Chairman Le Frois – yes. The motion carried.

In compliance with the Open Public Meetings Act, the following is a list of the monthly meetings of the Town of Newton Planning Board. The Board will meet at 7:00 PM on the third Wednesday of every month. The meetings will be held at the Town of Newton Municipal Building, 39 Trinity Street, Newton, NJ 07860.

January 17, 2018

February 21, 2018

March 21, 2018

April 18, 2018

May 16, 2018

June 20, 2018

July 18, 2018

August 15, 2018

September 19, 2018

October 17, 2018

December 19, 2018

January 16, 2019

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

A motion was made by Mr. Russo and seconded by Mr. Marion to approve the meeting dates for 2018. There was no discussion. Roll Call: Mr. Marion – yes; Mrs. Larsen – yes; Mr. Butterfield – yes; Mr. Wink – yes; Mrs. Vrahnos – yes; Mr. Russo – yes; Mr. Levante – yes; Mr. Elvidge – yes; Chairman Le Frois – yes. The motion carried.

**CONSIDERATION OF MINUTES**

December 20, 2017

**A motion was made by Mr. Marion and seconded by Mr. Butterfield to approve the December 20, 2017 meeting minutes.**

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

**The motion was carried.**

**HISTORIC RESOLUTIONS**

Teyma Group LLC (HPC#-1-2017)  
Block: 8.04, Lot: 6  
185 Spring Street

Recommendation to approve the redesign and alteration of the front façade of the building.

**A motion was made by Mr. Marion and seconded by Mr. Levante to approve the recommendation.**

**AYE: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Russo, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**The motion was carried.**

Marotta-Godkar LLC/Advanced Cardiology LLC (HPC#-2-2017)  
Block: 5.01, Lot: 24  
59 High Street

Recommendation to approve the installation of a handicap accessible wheelchair lift.

**A motion was made by Mr. Levante and seconded by Mr. Marion to approve the recommendation.**

**AYE: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Russo, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**The motion was carried.**

**RESOLUTIONS**

2017 Zoning Summary

Mr. Soloway reviewed the 2017 Zoning Summary.

**Mr. Marion made a motion to approve the report and transmit it to the Council. The motion was seconded by Mr. Butterfield.**

**AYE: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Russo, Mr. Levante, Mr. Elvidge, Mr. Le Frois**

**The motion was carried. Resolution approved.**

Christopher Ennis (#WSP-8-2017)  
Block: 5.05, Lot: 1

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44 Clinton Street

The resolution is granting a site plan waiver to permit a Ninja Warrior Training Facility on the site.

**Mr. Marion made a motion to approve the resolution. The motion was seconded by Mr. Levante.**

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

**The motion was carried. Resolution approved.**

Fitness Nation, Inc. (#SPWV-12-2017)

Block: 13.05, Lot: 25

11 Nelson Street

The resolution is granting a site plan waiver and certain sign variances.

**Mr. Marion made a motion to approve the resolution. The motion was seconded by Mr. Levante.**

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

**The motion was carried. Resolution approved.**

Cellco Partnership d/b/a Verizon Wireless (#PBFSP-11-2017)

Block: 18.02, Lot: 15

69 Sparta Avenue

The resolution is granting the applicant to construct and operate a wireless telecommunications facility.

Mr. Soloway recused himself as he has a conflict. Mr. Valenti stepped up. Mr. Valenti stated that there is a typo on page 4 of the resolution on the 7<sup>th</sup> line down. It should read "generator" not "general".

**Mr. Marion made a motion to approve the resolution with correction. The motion was seconded by Mr. Wink.**

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

**The motion was carried. Resolution approved.**

**OLD BUSINESS**

None

**NEW BUSINESS**

One Summit Avenue, LLC (#ZB-10-2017)

Block: 4.05, Lot: 21

1 Summit Avenue

The applicant is requesting a "d(2)" variance to create a multi-purpose room by enclosing the space over an outside deck which is an expansion of a non-conforming use and a "c" variance to eliminate fencing around a prior approval for an emergency generator.

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Mr. Levante and Mr. Elvidge recused themselves.

Mr. William Hinkes, Esq. of Hollander, Strelzik, Pasculli et al is representing the applicant.

Mr. Hinkes stated: The simpler of the two variances is the generator. You may recall last year we received minor site plan approval to put an emergency backup generator behind the nursing home which is on One Summit Avenue near the tower. The ordinance requires there be screening around it. We are hoping to come up with an alternative as there is not much room around it. After discussing it with the engineer we have decided to come back and pursue the variance to install it without the screening. Our Planner, Jason Dunn, will describe why we think this is best.

Jason Dunn of Dykstra & Associates, 11 Lawrence Road, Newton, NJ, was sworn in. The Board acknowledged that Mr. Dunn's qualifications as a Professional Planner are accepted.

Mr. Dunn reviewed Exhibit A-1, a colorized amended site plan for Valley View Care Center dated 9/27/2017 and revised 10/31/2017, and stated: Route 94 is at the top of the plan and building in question is colored orange. It is the nursing home. Summit Avenue is to the left of the drawing to the west of the building. The generator was previously approved by minor site plan in July of 2017. It is to the rear of the building, completely surrounded by pavement, and nearly against the side building wall. The ordinance requires that screening be provided with a generator that would be visible from a right-of-way or other home. In this case there are some buildings around. There is an apartment building that may be able to see the generator. We are asking for relief from providing that screen for a number of reasons. One reason is that the generator is a tone and color that does not stand out. It is in the utility area of the building. We feel that fencing around it would limit the air flow around it. You can't get it far enough away from the generator because it will impede the existing parking space. Parking at this facility is much needed. We feel that it is appropriate to ask for a "c(2)" variance from providing that screen.

Mr. Hinkes questioned: The "c" variance standard requires us to prove that the lot has some exception or hardships and peculiar shape that requires that. Do you agree that the circumstances in the back of the structure, satisfy that requirement?

Mr. Dunn stated: Yes. I believe it is a unique situation because it is surrounded by pavement. There is nowhere to put landscaping. Because of the limitation of parking, there is no way to put in the fence. So it fits the criteria.

Mr. Hinkes questioned: Do you see any negative impact on the area under the zoning ordinance?

Mr. Dunn stated: No. The generator was approved knowing that it would comply with the noise level ordinance of the Town. It's self-enclosed with aluminum housing so it meets that criteria so noise level wouldn't be a problem. As far as aesthetics go, it's a tan color. It is neutral so it isn't going to stand out and be a visual eye-sore.

Mr. Le Frois questioned: Without the fence is it easier for vehicles to hit the generator? Will there be bollards provided for protection?

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Mr. Dunn stated: As part of the minor site plan approval, there were three bollards on two of the four sides of the generator to be provided. The other two sides are protected by the building position.

Mr. Marion questioned: What changed from when you received approval originally to now in the need for a fence?

Mr. Soloway stated: If you recall, there was a discussion at that meeting whether you needed a wall. There was some discussion, but Mr. Hinkes and I agreed that because it was an ordinance requirement, if you eliminated the screening you would need a variance and because of the nature of the application you would have had to notice the application. So the Board couldn't consider granting the variance that night because there was no notice as is required for variance. So it just went through as screening to the satisfaction of the Board Engineer and if there was an issue they would have to come back.

Mr. Marion questioned: Has there been any research into an "L" shaped fence? It would be open to the building to the left.

Mr. Dunn stated: Looking at the drawing on Exhibit A-1, to the east of the building there is a large white area that hasn't been colored. That is all pavement. It is a shared driveway, so it would not be practical there.

Mr. Marion stated: I don't mean that far out. If you come down the side of the building and make an "L" it might solve that problem.

Mr. Dunn stated: It is a possibility. We feel that it is not necessary and are concerned that it would not be far enough away from the generator and it would start to encroach in the parking spot to the south of that.

Mr. Hinkes questioned: If you installed the fence as Mr. Marion suggested, would it create more difficulty parking cars and turning around in the back?

Mr. Dunn stated: Yes. It could impact that and it could also impact snow removal because it would stick out.

Mr. Marion questioned: How far are the bollards off the generator now?

Mr. Dunn stated: Three feet.

Mr. Marion questioned: And the fence could be three feet from the generator?

Mr. Dunn stated: Yes.

Mr. Marion questioned: Could the fence protect the generator from the snow plow pushing snow into the generator?

Mr. Dunn stated: Yes. Additionally, we need to make sure we have room to get around and maintain it. This is a critical requirement to the nursing home. We are looking to get relief.

Mr. Hinkes prompted Mr. Dunn to discuss the second part of the application.

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Mr. Dunn stated: The second part of the application is to ask the Board to grant approval of a building addition to the north and rear of the building. The building is a "T" shape. The addition would go over an existing open-air deck. So it would not impact impervious area. In fact, it is a little less impervious area than is there today. It is 24 ½ ' by 15 '. The purpose of the addition is a multi-purpose use to the nursing home. It would not add any beds or patients or employees to the facility. The owner is doing it to improve the programming and continue to be competitive in the market of surrounding nursing homes. The addition would be the same height as the building and finished with the same material

Mr. Hinkes questioned: Will there be any additional site disturbance there? It is over an existing improvement is that correct?

Mr. Dunn stated: Technically by definition of lots it is an expansion of non-conforming use. However, for all intents and purposes it is not an expansion because we are not adding employees or beds. In addition it's conforming of the setbacks and other requirements.

Mr. Hinkes questioned: What about the negative criteria that we have to prove to the Board's satisfaction. Is this a good use for the area? A good use for the community?

Mr. Dunn stated: Yes. It is a needed use in the community because of the aging community and the need for assisted care. It's an inherently beneficial use. These types of facilities have been recognized in New Jersey courts to benefit communities as a whole, so positive criteria are presumptively taken care of.

Mr. Hinkes questioned: Do you see any negative impact on the zoning ordinance?

Mr. Dunn stated: You have to identify any detriment that could occur as a result of this use. I've helped develop the plan with the architect and the owner. We tried to make as little impact as we can. We've visually blended it in with the building. There should be little impact to the neighbors. It should actually reduce the noise for the neighbors as the area will be enclosed instead of an open deck. There may be a light attached to the exterior doors if we are required to do so. As part of this approval, if the Board will allow, the owner would like us to have an option A, and an option B as far as the exit stairs from the addition. They prefer not to have stairs, but they understand that they also have to go for DCA to get approval and they may require stairs. There is already an accessible exit path out of the building from the front door. But we haven't found out yet if the stairs are necessary. If they are necessary, it will be strictly for utility and will require a downward light at the door.

Mr. Hinkes questioned: Do you have an elevation you can show of the structure?

Mr. Dunn stated: Sheet A-1 shows the elevation without the stairs. It would be a wall and a row of windows, a shingle shed type roof. The existing building is a flat roof.

Mr. Hinkes stated: Show the outline of the addition to what is presently there, of the deck.

Mr. Dunn stated: At the top of the sheet is an area encircled that shows a 15 ' by 24 ½ ' addition. Surrounding that area is a fine dotted line. That shows the existing deck.

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Mr. Hinkes questioned: Is there impervious coverage that threatens the maximum allowed for this lot?

Mr. Dunn stated: No. The lot is currently under the 60% allowable and we are reducing the amount.

Mr. Le Frois questioned: You said that the stairs will only be provided if DCA requires it. Is that correct?

Mr. Dunn stated: Yes.

Mr. Hinkes stated: We will ask for approval both ways and do whatever the DCA directs us to do.

Mr. Dunn stated: Sheet 2 was also submitted to the Board. It shows the stairs coming off the side.

Mr. Le Frois questioned: Does it land on grass or pavement?

Mr. Dunn stated: The site plan shows that the proposed stairs if required would go to grass. But there should be a concrete pad there that connects them.

Mr. Marion questioned: Would the stairs be on the right side of the building?

Mr. Dunn stated: Yes.

Mr. Marion stated: What about putting the stairs more to the left. It would be more hidden. If it's required, it would make it a little less visible.

Mr. Dunn stated: We can consider that decision. I know there is an exit door on the rear of the building with steps so it might be congested.

Mr. Marion stated: I didn't realize that. I agree with the placement.

Mr. Simmons reference his report dated December 11, 2017 and stated: On page 2 of the report item 3a, the assumed location of the existing gas line is shown running underneath the proposed steps leading to the addition. I recommend that the exact location of the gas line be confirmed by the gas company and the final location with respect to the proposed addition be approved by the gas company. This piece of property was subject to a subdivision years ago where they subdivided the existing dwelling at the corner of Summit and High Street off from the nursing home. At that time there was several easements set up for the utilities and there wasn't across the residential lot, there was an easement set up coming across that lot. I'm not sure the exact location of the gas line was pinpointed. I don't want the applicant to run into a problem if they end up having to relocate major gas lines.

Mr. Dunn stated: That is a good requirement and something we would comply with.

Mr. Le Frois questioned: Can that result in a major change in the design that's been presented?

Mr. Simmons stated: My assumption is that at that time they would have the gas company relocate the gas line. The addition is where it is.

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Mr. le Frois questioned Mr. Simmons: Is there a need for the fence?

Mr. Simmons stated: My suggestion is to eliminate the fence. The reason I say that is we had a similar situation at Barn Hill. They were supposed to have some landscaping or fencing to camouflage the generator. One of the things we ran into was when they got the information from the generator manufacturer, they require a certain off-set distance for airflow for the motor of the generator itself. I remember seeing a note that if the off-set distance isn't maintained it can compromise the integrity and efficiency of the generator which would be counter-productive to what everybody is trying to do. The other thing we ran into was on the plan, the footprint of the generator itself, usually the double-doors on the wrong side of the generator opened up. There's got to be room for that to swing out in order to service the generator.

Mr. Le Frois stated: So that increases the distance required.

Mr. Simmons stated: Exactly. So you've got a situation where if you put the bollards in you can get them fairly tight and they aren't going to block the airflow. But with the fence, it could result in a lot of real estate in that parking lot encumbered. If you recall in Barn Hill the solution was to paint it with faux brick. In this area it is in the back of everything so I don't think it would be necessary.

Ms. Caldwell referenced her report dated December 14, 2017 and stated: I essentially go through the criteria for the two variances. The variance is essentially a "c(1)" hardship variance based on the existing size and shape of the lot and the existing structure. And under the "d(2)" variance, just to clarify because it is an inherently beneficial use we sica test. This is a four part test. The first part is identifying the property at stake and in this case it is a nursing home and they are proposing to add a recreational room to the facility. Identifying any detrimental effects. We had a discussion about the visibility and that it is in the back and it is a pre-existing structure, a deck. And the Board can apply any reasonable conditions to off-set any impacts that are seen from the addition and weigh the positives and negatives and determine that the positives outweigh the negatives.

Portion opened to the public.

1<sup>st</sup> Public – Wayne McCabe, 125 High Street. I am within 200' of the property. I think the proposed facility will help the people there and it should be approved.

No more public stepping forward. Portion closed.

Mr. Wink questioned: If there are steps required, will there also be a requirement for a ramp?

Mr. Hinkes stated: The architect researched that and found that there is no building code requirement for a ramp because there is access from another part of the building.

Mr. Le Frois questioned: Is the current heating and air conditioning sufficient to regulate the temperature in the additional space.

Mr. Hinkes stated: I don't know the answer to that. It will be sprinklered.

Mr. Le Frois questioned: Could it require an upgrade in the size of the unit?

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Mr. Hinkes stated: It's a possibility but we don't know that. Particularly, if it's outside we will have to come back to you for an amendment.

Mr. Soloway stated: Because it is a non-conforming use I would recommend they come back to the Board if it is outside.

Mr. Marion questioned: How high is the deck?

Mr. Hinkes stated: It is 4'.

Mr. Marion stated: So if you did have to add anything you could put it under the deck.

Mr. Hinkes stated: That's possible.

Mr. Le Frois questioned: Are there any issues with construction accessibility from the street? No increase in traffic during construction or impact to Route 94 or Summit Avenue?

Mr. Dunn stated: It would be coming mostly from the rear parking lot. There might be a conflict for parking some of the time.

Mr. Le Frois questioned: Will they have to temporarily close parking spaces off to store materials?

Mr. Dunn stated: No. They shouldn't have to store anything in the parking area. There is enough lawn space they can do that. The truck traffic will be in and out.

Mr. Marion questioned: With the proposed gutter are you going to have the downspout on the proposed addition or just have the water run off?

Mr. Dunn stated: The roof pitch of the addition is to the rear. It will likely have some kind of gutter line.

Mr. Soloway crafted a motion: I recommend that you vote separately on the two portions of the application. The first part is for the variance requiring screening of the generator. The second part is the construction of the community room.

Motion crafted to grant bulk variance relief to allow the applicant to amend the prior approval and not have to screen the generator. The bollards would remain.

Mr. Marion made the motion to approve it. Mr. Russo seconded it.

Aye: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Russo, Mr. Le Frois

Motion crafted to grant the "d(2)" variance to allow the expansion of the pre-existing non-conforming use for construction of an activity room. With related site plan removal, in addition to the conditions that typically attach to a resolution granting this, you might want to consider that the applicant presented plans showing stairs but has asked to be permitted to dispense with the stairs if the Department of Community Affairs approves that. If it doesn't, they will install the stairs with some kind of light installed as well. Also, they would have to amend the plans if the stairs are included and they would have to install a concrete pad at the bottom of the stairs.

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Thirdly, they will be required to comply with section 3a of Mr. Simmons's December 11, 2017 report relating to the location of the gas line and fourthly that if additional HVAC improvements are required outdoors they will be required to come back before the Board. And an as-built as required by Mr. Simmons.

**Mr. Marion made the motion to approve the application. Mr. Russo seconded it.**

**Aye: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Ragsdale, Mr. Russo, Mr. Le Frois**

**Motion carried.**

Mr. Hinkes stated: I want to bring to your attention what a quality staff person you have in Kathy Citterbart. An example today is we tried to get a phone call into her to get one item straightened out for tonight to make sure we didn't have any delay. On the night of the meeting Kathy picked up the phone, spoke with Jason and give him the information he needed. She is very customer friendly and an exemplary employee.

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-Condemnation

Ms. Caldwell presented and discussed her report of December 29, 2017. She reviewed the criteria for the area in need of redevelopment and found that the property at 121 Water Street meets the following criterion:

The area meets Criterion "a", "b", "d" and "h". This section provides descriptions of how the area meets each identified Criterion which is then followed by Interior and Exterior Site Photos that provide visual support for the descriptions.

Qualifying Criterion "a"

Criterion "a" of the LHRL states: "The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions."

The structures on the site are substandard, unsafe, unsanitary and dilapidated so as to be conducive to unwholesome living or working conditions. The Main Office Building has ceiling leaks that have caused mold and mildew as well as damage to the ceiling and floor tiles. The Main Office Building has unsanitary bathroom facilities that are not connected to working fixtures. The Main Office Building also has insect and rodent infestations and droppings throughout the building. The Garage Building has no working plumbing, earthen floors in locations and broken or non-existent walls and windows. The ceilings are also leaking. Rodent and insect infestations are also present in the Garage Building. The Quonset Hut has earthen floors, no plumbing fixtures and no working entry doors or exits.

The structures are also lacking in light and air so as to be conducive to unwholesome working conditions. The Main Office Building has limited light and air as the design has very few windows. Office spaces are small and interior to the building, most of them lacking air and light. The Quonset Hut has no windows and no working entry or exit doors. It is completely lacking in

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natural light. The condition of these structures is not conducive to wholesome working conditions.

The Garage Structure and the Quonset Hut are extremely dilapidated and uninhabitable for living or working conditions. The Main Office Building has been neglected and vacant for several years and is currently not habitable for use.

There are three (3) structures currently on the site, all of which are substandard and in various states of dilapidation. The buildings are currently unsafe for habitation due to leaking roofs, lack of water and sewer connections, insect and animal infestations, disrepair, mold and mildew, broken windows, dirt floors and general deterioration. The long-term vacancy of the site is worsening the conditions of the buildings.

Qualifying Criterion "b"

The site also meets Criterion "b" which states: "The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable."

The buildings on the site have been vacant for over four years. They were previously utilized for commercial and industrial purposes as noted for the tractor sales and repair on the site. The buildings are vacant and have fallen into various states of disrepair such that they are untenable. The Main Office Building has ceiling leaks that have caused mold and mildew as well as damage to the ceiling and floor tiles. The Main Office Building has unsanitary bathroom facilities that are not connected to working fixtures. The Main Office Building also has insect and rodent infestations and droppings throughout the building. The Garage Building has no working plumbing, earthen floors in locations and broken or non-existent walls and windows. The ceilings are also leaking. Rodent and insect infestations are also present in the Garage Building. The Quonset Hut has earthen floors, no plumbing fixtures and no working entry doors or exits.

Despite a high level of commercial activity surrounding the site, the site has not been occupied by a tenant. The lack of interest by viable commercial tenants along a busy commercial corridor points to the untenable condition of the site. For these reasons, the site meets criterion "b".

Qualifying Criterion "d"

The "d" Criterion states: "Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community."

The site has an obsolete layout and design. The circulation of the site is disjointed, with several different angles of access and areas that are underutilized from a site layout perspective. The parking on the east side of the building requires cars to back-up into the roadway. The Main Office Building is setback from the road and a large grass area in front of the building is not utilized. The disjointed shape of the building and lack of windows create difficulty of adaptation to other uses. More than half of the site is covered by gravel and open paved areas with no

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markings or organized parking or circulation. The Garage Building and the Quonset Hut are both so dilapidated as to be unusable. All three buildings are set back to the middle and rear of the site, leaving the valuable highway frontage open and vacant. The prior uses on the site resulted in a deleterious use of the land causing contamination of the soils on the site. For these reasons, the buildings and layout of the site are not readily adaptable to other uses and as a result, the long-term vacancy of the site has led to a condition of blight on the property. The site meets criteria "d" because the buildings are obsolete, dilapidated, have a faulty arrangement and design which is not readily adaptable to other viable commercial uses. The site is not in conformance with the Town's Form-Based Code, being non-conforming for building type, front yard setback, minimum building height, parking area and landscaping design and screening and buffering. All of these conditions are causing a detriment to the public welfare because the site remains vacant along a busy commercial corridor where the public is not benefiting from a productive commercial use on the site and is instead experiencing the negative impacts of a vacant dilapidated and non-functioning property. The vacancy and dilapidation of the property is negatively impacting adjacent properties by negatively impacting the connectivity of the commercial frontage on the southern side of Water Street. Additionally, the Shoprite directly across north park drive was also declared an area in need of redevelopment in connection with the Armory Property behind it. For these stated reasons, the site meets criterion "d".

Qualifying Criterion "h"

The "h" Criterion addresses smart growth consistency and provides that municipalities can designate an area in need of redevelopment if the designation is consistent with smart growth planning principals adopted pursuant to law or regulation. The Town of Newton has adopted Transect Zoning and a Form-Based Code, which is based on the smart growth planning principals outlined in the Town's 2008 Master Plan. Additionally, the Town has worked with the State Planning Commission since 1993, when it was first designated as a Regional Center consistent with the State Planning Act. More recently, the Town of Newton received Plan Endorsement by the State Planning Commission, also deeming the Town of Newton's plans and ordinances as consistent with the State Plan. When reviewed with the Town's Master Plan and Form-Based Code, it is apparent that Study Area is best developed consistently with smart growth principals by focusing access and development along US Route 206. The extended setback of the building which does not provide an opportunity to create a walkable site from US Route 206 makes it unfeasible for development under smart growth planning principals. Additionally, redevelopment of an underutilized site in a Town Center, an area deemed to be a smart growth area by the State Plan, is consistent with the smart growth planning principals adopted pursuant to law or regulation. For this reason, the site meets Criterion "h".

Portion opened to the public.

1<sup>st</sup> Public – Steve Martin, owner of commercial properties in the surrounding areas. I don't know what the plan is.

Mr. Soloway stated: There is no plan yet.

Mr. Martin continued: If we met some of the criteria could we be designated a redevelopment area?

Mr. Soloway stated: You would have to go to the Board.

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Mr. Martin questioned: And once this is designated as a redevelopment, how long does that last?

Mr. Soloway stated: If the Board finds that the report is accepted and recommends that the property is in need of redevelopment, they go back to the Town Council. The Town Council would then consider whether to adopt a Redevelopment Plan that would define and dictate how the property would be redeveloped. The Redevelopment Plan serves in lieu of the ordinance governing that particular property. If there is a Redevelopment Plan it then comes back here for recommendation by the Planning Board. There isn't a Redevelopment Plan yet. All the Board is going to do tonight is make a finding as to whether the property meets the statutory criteria to qualify as an area of redevelopment.

Mr. Le Frois questioned: Could Mr. Soloway or Ms. Caldwell explain if there are advantages to a property determined as being in need of redevelopment and are there other reasons for it?

Ms. Caldwell stated: Essentially the Redevelopment Statute is written to address areas that aren't being developed through private capital. So the idea is to provide incentives to redevelopers to take on a piece of property. There's also an assumption that redeveloping a property can be expensive and cumbersome. You might have issues with contamination, removal of existing structures so there is additional cost. In order to off-set those costs, the municipality is able to provide long term tax abatements on the site which often come in as payment in lieu of taxes or pilots. The municipality is able to drop the Redevelopment Plan which is a very specific zoning plan. A municipality can auction off work with developers directly. You don't have to work with the same statutes of selling a piece of property or contracting with a developer. There are also redevelopment area bonds which is one thing the Town of Newton did when working with Thorlabs where the Town can assist and utilize its bonding capacity to assist with the development. All these things are tools in the tool box for the Town Council to utilize and they can only do so in the areas of redevelopment.

Mr. Soloway stated: So all we are doing tonight is making a finding as to whether or not it meets those criteria. It would then go back to the Council. If there is a Redevelopment Plan that is adopted it will come back again. Tonight the focus is solely on if it meets that criteria.

Mr. Le Frois questioned: So the current owner could redevelop it or it can be sold or redeveloped?

Ms. Caldwell stated: Correct.

Mr. Le Frois questioned: And the reason the Town is doing this is perhaps the current owner needs a kick start to sell the property or do something with it? Right now it is just sitting.

Ms. Caldwell stated: I think there are issues that the site needs to be cleared. There just needs to be some extra assistance. It's been sitting for so long and it is a prime piece of property given the location.

Mr. Le Frois stated: So the Town is being proactive.

Ms. Caldwell stated: Correct. And it meets the criteria of the statute according to my study. As far as how long it will remain a redeveloped area, once it is redeveloped under a

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Redevelopment Plan it is not considered an area of redevelopment area anymore, such as Thorlabs. It was a redevelopment area, it was redeveloped, and it is no longer a redevelopment area.

Mr. Le Frois stated: And as Mr. Martin asked does it stay with the property regardless of ownership or transfer of ownership?

Ms. Caldwell stated: Correct.

Mr. Martin questioned: Can you do this with raw land?

Mr. Russo stated: You can. Thorlabs was raw land.

Ms. Caldwell stated: It depends. You need to meet at least one criterion. Hopefully it meets more than one. But it should meet at least one of the criteria in the statute.

Mr. Martin stated: So if it is approved by the Council it will come back and we can have time for more comments and questions.

Mr. Soloway stated: The procedure after it gets kicked back to the Council is similar to the procedure when adopting an amendment to the zoning ordinance, it gets drafted by the Council and then it comes back here. What is unique about tonight is it is just a finding.

Ms. Caldwell stated: It is not deemed an area in need of redevelopment until the Council adopts the final resolution. This is a recommendation from the Board.

Mr. Le Frois stated: The next step would be the development of a Redevelopment Plan where you would discuss types of usage.

No more public stepping forward, portion closed.

Mr. Le Frois stated: We have a draft of a resolution in front of us that would transmit the study and the findings of fact to the Council. It also would provide our endorsement of the recommendation that is included in Ms. Caldwell's study that this does indeed meet the criteria for the non-condemnation in need of redevelopment in accordance with the Redevelopment Law as set forth in the study.

**Mr. Russo made a motion to adopt the resolution. Seconded by Mr. Elvidge.**

**Aye: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Russo, Mr. Levante, Mr. Elvidge, Chairman Le Frois.**

**Motion carried.**

North Jersey Health Care Properties (#SV-1-2018)  
Block: 1.02, Lots: 3 & 4  
200 High Street

The applicant is requesting preliminary & final site plan approval and minor subdivision approval for an ambulance staging building for Newton Medical Center.

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Willard Bergman, Jr., of Segal & Bergman LLC representing the applicant.

Mr. Bergman stated: This property as described by the chairman is located directly across the street from the Newton Medical Center on High Street. The adjacent property, which is part of the minor subdivision that we are proposing which is lot 4, block 1.02, is owned by AHS Hospital Corp., also a non-profit corporation. Both of these landowners are affiliates of Atlantic Health System, as is Newton Medical Center. That's why the land swap is so feasible as it enhances this application we are readily undertaking and presenting as part of this application. The applicant proposes to construct an ambulance dispatch and warehouse facility that is a permitted use in the SD-1 Special District Hospital Zone. The application requires two variances for your consideration. One variance is the nature of the front yard, frontage set back. The second one would have to do with required improvements along High Street for sidewalks, bicycle lanes, and parking. I have two witnesses tonight. My first witness is Edward Martins. Mr. Martins is a Construction and Design Manager at Atlantic Health Systems. He will discuss the operational components for the proposed facility. My second witness will be Daren Phil of Suburban Consulting Engineers. He is the Project Engineer and Professional Planner. Mr. Phil will discuss several engineering aspects of the facility and the site and discuss the variances.

Sworn in: Mr. Edward Martins and Mr. Daren Phil

Mr. Daren Phil has a Bachelor's degree from Rutgers University; he has been a licensed Professional Engineer in the State of NJ since 1990. He has represented many land development applications throughout northern NJ. The last one presented here was for Atlantic Health on the liquid oxygen facility located in the front. He secured his Planning License 20 years ago. Both licenses are current. The Board accepted his qualifications.

Mr. Martins stated: I am the Manager of Design and Construction for Atlantic Health based in Morristown, NJ. I have been involved in several of these facilities throughout the State. My familiarity with this comes from being involved in the other similar type of facilities.

Mr. Bergman questioned: Are the facilities up to date, operational and working successfully?

Mr. Martins stated: Yes.

Mr. Le Frois questioned: Are you involved in both the construction and operation of the facilities?

Mr. Martins stated: No. I'm on the construction side. I work with the operations team when designing the property.

Mr. Bergman questioned: What is an ambulance dispatch facility?

Mr. Martins stated: This facility plays several roles. There will be several ambulances based here for the transport side of transporting patients in non-emergency transport. There will also be emergency ambulances based here. In addition, when one of the helicopters is grounded for bad weather it will be based here. There are also two wheel chair transports that will be based here. In addition, once we are in this facility we will be providing back-up in this area to twelve of the local volunteer ambulance squads. This will be their primary back-up facility. This building will ultimately have 24 employees based here. They are not all at the same time. Most of the time they are on the road and have multiple shifts throughout the day. It's a facility that will be maintained 24/7, 365. They will be existing employees. In addition we will have a service bay in

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the building. Think of it as a glorified Jiffy Lube. We can change oil, flat tires, and do miscellaneous repairs. Main repairs are done in Livingston, NJ. That will be inside this building. In addition, there will be a small warehouse inside the building to house medical goods and supplies that are delivered to homes and some to the hospital. It is approximately a 12,000 square foot building in total. It is one story. It will have high ceilings because the ambulances are tall.

Mr. Le Frois questioned: Are the supplies perishable?

Mr. Martins stated: No. They are all medical equipment.

Mr. Bergman questioned: Is there storage outside of the warehouse?

Mr. Martins stated: No. And no medical waste?

Mr. Bergman questioned: What is your experience in the sufficiency for the parking?

Mr. Martins stated: We looked at the ambulance schedules and how the employees are scheduled with those ambulances. We had to account for the shift times. One crew is coming on at six while another is going off at six. But there may be an overlap if they are early. We factor that all into the count to determine what will be sufficient to meet our needs.

Mr. Bergman questioned: Do you consider this site to be sufficient?

Mr. Martins stated: Yes. In some ways it is more than sufficient.

Mr. Bergman questioned: Do you have other similar operations where parking is tighter or more limited but it still works?

Mr. Martins stated: Yes.

Mr. Bergman questioned: How about noise being generated by operation of the ambulance or the facility itself?

Mr. Martins stated: We are in the hospital zone. Number one, the ambulances will not be employing sirens when they are going out and number two, because of the design of the building, when the ambulances return they are going to be pulling in from the rear and driving through. So there is not going to be any back up noises going on in the middle of the night.

Mr. Bergman questioned: What types of trucks and frequencies of truck deliveries do you expect?

Mr. Martins stated: The deliveries coming in may be as frequently as daily. We have a main distribution center in Whippany, NJ. We will be supplying ourselves. We work on a just in time delivery system. Those trucks will be no larger than a 16' box truck. The vehicles that make the deliveries to the residents are the small sprinter vans. There will be four of those based there and the drivers will come to work, load their truck, and then they are out for the day making their deliveries. There will be one or two trucks refilling. It would be during the day. In the warehouse side, their hours are 7am to 5pm Monday through Friday.

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Mr. Le Frois questioned: What is the total number of vehicles that would be based there?

Mr. Martins stated: Currently there are 10 vehicles that are planned to be based there. We've designed the facility to accommodate 12 to allow us two more for the future. We need the extra spots for when an ambulance comes in if it needs to be hosed off because of road salts. We'll take one of the bays and use it for things like that. So we would have a bit of a cushion. We also have the paramedic supervisors. They have the suburban type of vehicles. So we put one of those in the garage.

Mr. Le Frois questioned: Out of the ten which are ambulances?

Mr. Martins stated: There are ten ambulances. The medical delivery vehicles are separate. They go inside the building in the two doors plus in the rear of the building we put a line of ten oversized parking spots for trucks or if an ambulance has to park and wait for service. It's behind the building so you won't see it from the road.

Mr. Marion questioned: Do you store oxygen tanks?

Mr. Martins stated: Yes. It will be limited to no more than 3000 cubic feet. They will be individual tanks. They won't be large tanks. Tanks that are coming in and going out.

Mr. Marion questioned: You made a comment about helicopters and bad weather. Would they land on this lot?

Mr. Martins stated: No. They would land at the hospital and the crew would come to this building.

Mr. Le Frois questioned: Are there sleeping quarters in the building?

Mr. Martins stated: No. It is not set up to be a dormitory or sleeping facility. It is set up as a place for the crews to have a lounge, eat, shower and bathroom facilities and to be dispatched if they are not out on the road. There are also office facilities.

Mr. Butterfield questioned: Will this facility be dealing with any bio-hazards from the ambulances?

Mr. Martins stated: No. It will be done at the hospital when discharging the patient. We don't intend to allow any hazardous materials to come on this site.

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

Mr. Daren Phil reviewed the plan the site plans and stated: With regards to the application documents that have been submitted, this is the cover sheet, the initial set for the preliminary and final site plan and subdivision relative to the application. Number 2, on sheet 2 you have the legend. If everyone could have a quick look and recognize some of the notes associated with this project, the building is well within the permitted setbacks. It is uniquely located farther back than by ordinance and we will talk about that on our deviation from the zone plan due to the wetland restraints that are on the area. But due to the fact that the impervious lot coverage is only half of what is permitted by ordinance. There is green space on the property that is not needed. We just had a discussion related to the parking. The applicants turned around and

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have the facilities and know the exact use and we are providing a more than ample amount. In regards to the type of criteria, we have provided a summary. On sheet 3 what we have is the Project Key Map. We took an aerial shot of the surrounding area and showed the zoning and the environmentally sensitive areas. In the zone we have the hospital that is across the street and the two subject lots which are located in the SD-1 Zone. This use is obviously permitted as indicated. When we initially started we were just dealing with lot 3. We just about had the whole site plan put together, the building was located much further back, and there are steep slopes and a significant change in grade when the upper properties along the rear of the subject lot about 50' above the middle part where the proposed building is located and what we have found is where we are really struggling is where there were walls 20' tall were needed we were impacting the wetlands in front. It was very cumbersome because of the shape of the property. As you can see it is L shaped. After we realized that the client owned the land next to us, we realized that if we could turn around and make an adjustment here, we could swap back square foot for square foot and make a straight line. Get the geometry on this lot corrected, not change any lot areas and also provided an avenue not to impact any wetlands and then turnaround and line up our driveway with the hospital. That's how the minor subdivision came about. This is a separate sheet number 4 and it goes through and illustrates what is required to be demolished on the property. There were two structures that were there. This property was previously developed. Typically if there is an existing structure on the property we raze it and get rid of the liabilities associated with it. Sheet 5 is the Proposed Minor Subdivision Plan. We have these two hatched areas. So we have the L shaped lot three, now we pretty much have a rectangular lot three.

Mr. Soloway questioned: Would both lots meet all bulk standards under the ordinance?

Mr. Phil stated: Yes. Both lots are significant and we are not changing any lot areas. You can see a significant amount of frontage where lot three was shy. Lot 4 has almost 700' so it is more than adequate to comply with the zoning ordinances.

Mr. Wink questioned: Why not just marry the two lots under common ownership?

Mr. Phil stated: Because both areas are not needed at this time.

Mr. Bergman stated: What I can represent is that there are no plans at the current time for development of that lot. One lot is owned by AHS Hospital Corp. Common control is a better way to put it.

Mr. Phil stated: In regards to this sheet you can see that we had the wetlands delineated that are on the northwest corner of the property and we have the associated transition. So you can see where 80% of the lot across the frontage was encumbered with this environmental feature. Gaining this piece was quite significant in putting the driveway in. The application is with the DEP to verify that these limits are accurately delineated. We also show the limits of lot 4. On Sheet 6 is the site layout plan which provides the layout of the building. As you can see where the wetland transition area is we are approximately 15' off. We are trying to keep the building as compliant as possible, but we were unable to keep it with the ordinances to have room for the public to turnaround and have the improvements in the rear.

Mr. Phil continued: There is no public and it is just EMS services that are dispatched here. With regards to the oversight for work, we do provide the accurate site distance. As you pass through the employee parking is on the side and if the ambulance were coming back after

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dispatching it would come around the back. The three front garage doors are for a dispatch for egress out of the garage area. Behind them on the other side of the building are doors so you would pull in there and line up. Each garage door and each bay would have four vehicles; two ambulances with the two SUVs that sit behind them. So they are double-stacked. To the east side is the service bay as indicated by Mr. Martins. To the west side we have the warehouse. This is where the deliveries are. It would be in the garage door bays, inside, turn around and load or unload and dispatch from there. The whole operation is inside the building. It is a single-story building.

Mr. Phil continued: Sheet 7 is the Overall Grading and Drainage Plan. We did provide full construction drawings here. There is a knob that comes across from lot 4 to lot 3 and we need to cut that out.

Mr. Soloway stated: Will the second lot have a functional relationship to the main facility?

Mr. Phil stated: No. We will regrade it.

Mr. Soloway stated: For the record, there is no need to memorialize any easement rights between the two lots should there be any separation of control in the future?

Mr. Phil stated: It is definitely not needed. Sheet 9, the Utility Plan, shows the drainage coming through, we have underground electric coming in. We've got gas coming, water, and sanitary sewer.

Mr. Bergman questioned: Is now a good time to talk about the generator?

Mr. Phil stated: Yes. This is on the west side, the side where the warehouse is. Starting on the front corner we have an emergency generator and transfer switch to run the generator. We are about 140 ft. of side yard from the generator in that pad. We do provide landscaping around this area, other mechanicals for cooling and heating. And we verified that we are in compliance. Run time will cycle just to show operational done during the day. We will only run the generator between the hours of 9-5 for exercising. The specifications for the generator include sound attenuation and we will meet all the State requirements for noise.

Mr. Phil continued: Sheet 10 is the Utility Profiles. Sheet 12 is Landscape and Lighting Plan. It provides a lot of details including street trees so it will look presentable, even though the public won't really see it. However, when pulling out of the hospital we are right across the street and it will be visible from there. So we provided an array of deciduous trees and evergreen shrubs. The landscaping meets the requirements of the ordinance. There are a lot of details in regards to the construction, soil and sediment control, over consolidation of soil. We do turn around and get into providing the Cut and Fill Plan on Sheet 17 to meet the graded design. We do need a waiver on the steep slope and will have to regrade. We are staying away from the rear of the property.

Mr. Bergman questioned: Please discuss signage.

Mr. Phil stated: There is one internally illuminated sign out front. We have to make sure it meets the ordinance. It will be 8' x 5' which is 40 square feet. It will have the number and the name.

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There is no signage on the building. There may be numbers on the doors and that may be the only thing that is directional. It has nothing to do with advertising.

Mr. Le Frois questioned: Where do the office staff park and how do they access the office?

Mr. Phil stated: On Sheet 6 you see the sidewalk which is ADA compliant. The sidewalk is going across the 7 spaces there. Those spaces are designated for the employees; the drivers and the office staff. They would go on the sidewalk, across the front, another sidewalk, and then there are two doors. One goes into the office and one into the warehouse.

Mrs. Vrahnos questioned the ambulances lining up and has there been a traffic study done?

Mr. Martins stated: Once the ambulance is out, he's out for the day.

Mr. Phil continued: The last sheets were prepared by the architect. It shows the north elevation which is the three doors. This is what you will see when you are looking at the driveway. You can see there is stone work, colored doors to match the overhead doors. Horizontal siding. The tower feature. The fact that it is going to be visible coming from the hospital means we wanted it to look nice. The last sheet shows truss construction and the overall sizes. It will sit a little higher. The ceiling is 16'.

Mr. Bergman stated: I would like you to discuss the frontage variance on Sheet 6. Common yard frontage, landscape tree and lighting.

Mr. Phil stated: We have by your ordinance a common yard frontage because we are setback so far. It will be a green grass lawn area with landscaped trees and lighting. It seems to make sense in regards to the hospital zone. For this use we don't believe it's needed because the public is not coming in. We do want to be consistent with these setbacks because we have a pre-existing medical building next to us. We are in line with that and would like to move forward but we are constrained by the wetlands. There is one residential property sitting here in the right-of-way from our survey analysis here. It is a pre-existing non-conforming use as it is located. We are not going to disturb the environmental constraints.

Mr. Soloway stated: So your testimony is that if you were going to comply with the ordinance and move the building forward, you would have to invade wetlands or wetland transition areas.

Mr. Phil stated: Absolutely.

Mr. Soloway stated: So your testimony is because of the unusual property features you should be granted the hardship variance relief.

Mr. Phil stated: Absolutely.

Mr. Phil continued: The second variance has to do with the sidewalks across the frontage. Again we have the same situation with this wetland feature being located right off the travel way. We have about 20 to 25' of wetlands impacted. We would have to have another 150' of transition area. Then we have about 75' of sidewalk so it's a lot of impacts on the environment that we were proposing.

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Mr. Bergman stated: We had a discussion and for the record, there are no sidewalks on any of the adjoining properties on our side of the street on High Street. The applicant would be amenable to a provision in any condition of approval that this Board may see fit to grant that in the event that there would be sidewalk improvements installed along High Street in the future, the applicant would be amenable to include this property as part of that at our expense of course. Mr. Soloway and I discussed it this afternoon. If that is in a resolution we can then attach it to the deed confirming the subdivision approval then that would bind lands of not only the present property owner but any future property owners in that regard. That would be acceptable to the applicant.

Mr. Soloway stated: So we are clear, there will be a condition that if there are sidewalks developed on the adjoining property the applicant will also construct sidewalks subject to the permission from DEP and DOT and the stipulation will be memorialized as a deed restriction.

Mr. Bergman stated: Yes. We believe that right now it would be quite rigorous for us to secure the wetland permit but if it is part of a much bigger plan then public safety would trump that and we would have a reason to secure it.

Portion opened to the public.

1<sup>st</sup> Public - Michael Malone, 57 Trinity Street, Newton. Will you be putting any caution lights on the streets for traffic going either way?

Mr. Phil stated: No. With the amount of traffic we would not get support from DOT to add a signal at that location. The fact that it is only two lanes assisted.

Mr. Malone stated: That seems like a safety problem to me.

Mr. Phil stated: We have submitted it to DOT and we are waiting for an approval on the driveway. They will look at that with the use and the density, etc. and will warrant and necessitate what is needed. There is a rigorous review process that will happen with their experts.

Mr. Marion stated: Sir, are you thinking about the ambulances leaving the facility with their lights on?

Mr. Malone stated: Yes.

Mr. Martins stated: There will be five ambulances there that will go out on emergency calls.

Mr. Malone questioned: Are you in any way associated with the existing Atlantic Ambulance service?

Mr. Phil stated: This is who this is for.

No more public stepping forward. Portion closed.

Mr. Bergman stated: I have no closing comments, except that we are fully prepared to comply with all of the suggestions in your consultant's reports. We have gone over them with them and we are prepared to have them be part of our depositions.

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Mr. Simmons reviewed his report dated February 15, 2018 and stated: On page 2 with the zoning I talk about the variances involved. Number three the subdivision plan. I agree with the lot line adjustment, it is a better configuration with the developing of this site. Item 3d, Mr. Phil pointed out there are a couple of encroachments. One from the private road and one from the house on High Street. On the site plan there are a few minor items. Number four the applicant has agreed to take care of on the plans. Item number 5 on the parking, I pointed out that if worst case scenario if everybody showed up at once where would they park? The answer was they could park in the spaces being provided or put their own personal vehicle inside. There shouldn't be any parking along High Street or the driveway. In regards to the loading zones, they don't have the loading zones that are the typical 12x25, but basically the two overhead doors that are for the warehouse area, these are the areas to back the delivery vehicles into. When you come around the back you would be facing them.

Mr. Le Frois stated: So the truck would pull in to the trash bin and then back up into the warehouse.

Mr. Phil stated: The bays are 25' deep. The vehicles can be in there, out of the weather, and load on the wheelchairs or whatever. Then turnaround and deliver to people's homes.

Mr. Soloway questioned: So it will effectively function as a loading zone. Is that your testimony?

Mr. Phil stated: Yes.

Mr. Simmons continued with his report: On page 5 under item 6, Stormwater Management, subject to the applicant setting his feedback in regards to the wetlands and the transition areas, the additional soil testing and redesign of the storm drainage, meaning the basin down by the bottom, underground pipes. I recommend that be subject to our office working with the applicant to get that squared away. The utilities, they will be tying into the water and the sanitary sewer. Basically I have some minor recommendations as far as the utilities are considered. In order to tie into the sanitary sewer they are going to be running a force main down to one of the manholes on High Street. I recommend that the applicant be totally responsible from the building to the manhole as far as that pumping system goes.

Mr. Soloway questioned: Is that okay with the applicant?

Mr. Bergman stated: Yes.

Mr. Simmons continued his report: In regards to the lighting, I want to point out they are using the LED lights for the site. As I understand, basically those lights are on for the night time use they will dim down to 50% output and those motion detectors they are proposing if someone shows up or the ambulance goes out they will go up to 100% and stay up for 15 minutes and then ramp back down to 50% low. It is a good energy saving tool and is giving lower level intensity to the neighborhood. In regards to landscaping, I know they are working on it because they've changed the configuration of the lot, including tree sizes to comply with the ordinance. Also, confirm that they have planted enough to compensate what they are taking down.

Mr. Le Frois questioned: You said it should be a 50% ratio. Shouldn't it be one for one?

Mr. Simmons stated: I think the ordinance says 50%.

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Mr. Le Frois questioned: So they only have to replace half?

Ms. Caldwell clarified: One for one on half. The idea was to allow for some development.

Mr. Simmons continued reviewing his report: Regarding the signage the applicant is including is the sign on Route 94, High Street. It will have internal illumination so it will need approval. We discussed the Architectural Plans, the generator. We talked about the drainage that would be subject to. Item 15, I made some recommendations. Some approvals I believe they would need to obtain. Section 16 that they don't have in this set of plans is the traffic control plans for High Street as far as the activities that would work alongside. And an as-built so the Town has it for its records.

Mr. Le Frois stated: There would be no exceptions.

Mr. Bergman stated: Correct.

Ms. Caldwell reviewed her report dated February 16, 2018 and stated: Generally the applicant addressed the items but I just want to highlight a few things. In regards to the variances, it complies with the bulk of the standards in the zone with the exception of Building Disposition And Private Frontages. I think it makes sense given the site constraints and the use of the lot in the location that is proposed. In regards to the sidewalk exception it really goes to street frontages on new properties and subdivisions. I do push for the Board to consider this and not as a waiver just a variance straight out. I think that if eventually sidewalks are constructed in this area there is a neighborhood residential zone adjacent to the hospital and I think it could become more of a pedestrian area. I think this would be a compromise idea that was come up with between the applicant and the Board and addresses future possibilities for meeting sidewalks. The applicant addressed the off-street loading waiver and the steep slopes waiver. In terms of ground signage, they propose one ground mounted sign at the driveway which is permitted. However, internally illuminated signs do require approval by the Board.

Mr. Le Frois questioned: As part of the ordinance is the strength or number of nits addressed?

Ms. Caldwell stated: It is not addressed. There are no nit requirements with internally illuminated signs.

Mr. Phil questioned: If it was just the monument and a flood light from the ground is that another option?

Ms. Caldwell stated: That is another option. Internally illuminated is fine too.

Ms. Caldwell continued her report: In terms of architectural elevations, it is a utilitarian type of building. They have the standards and they have agreed to meet those. There are not a lot of windows. The different color doors break it up. The materials shall include clapboard, decorative shingles, brick or stucco. The proposed elevations include "aged white" lap siding, "aged white" EIFS or faux stucco siding. Does the Board want to give any input?

Mr. Le Frois stated: I like the look provided in the plans.

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Mr. Phil stated: We don't want it to look like the hospital because we don't want patients coming in here by accident. We want something unobtrusive, low-key and yet has an upscale feel to it. Clapboard or vinyl with a raised texture to it. We haven't developed that yet. It might be the peeled stone look. Do you prefer the brick? I can do brick? I want to have some natural stone in there.

Mr. Marion stated: I like the proposed rendering.

Ms. Caldwell continued: With respect to the minor subdivision I've been reading over the standards and they should submit any deeds.

Mr. Simmons questioned: For the operation of the site are there any antennas you need to have?

Mr. Phil stated: No. We are running a high speed fiber line. We will be doing everything back to the hospital's system, so there won't be any antenna.

Mr. Le Frois questioned Mr. Simmons: Do the luminaries have to be a certain type to fit Newton or is that just downtown?

Mr. Simmons stated: The parking lot lights are the standard LED fixtures.

Ms. Caldwell stated: It's ok as long as it's internal to the site. If they were providing streetscape lighting they would be required to match all the streetscape lighting.

Mr. Bergman stated: We will probably match what is on the roadway up to the hospital.

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

Mr. Soloway crafted a motion to approve with a motion to grant preliminary and final site plan approval to grant a variance from the Building Disposition and Private Frontage Requirement that allows the building to be placed further back on the lot. It will be a variance subject to a condition that I will get to. To allow them not to construct the sidewalk/bicycle lane area along the front of the property. There will be a design waiver to allow a no-stripped loading zone. There will be a design waiver from the steep slope requirements as described in the testimony. There will also be granted permission to have an internally illuminated sign. The conditions would be no use of the private road to the rear, compliance with all applicable noise requirements in general and in particular to the operation of the emergency generator. Exercising and testing of the emergency generator would only be permitted during normal business hours defined as between 9am and 5pm Monday through Friday. On the sidewalks there would be a condition that if the adjoining properties every developed and sidewalks were constructed, application would have to be made to DOT and DEP for permission to also put a sidewalk on this property to connect with them and the way that condition would be enforced and in effect by recorded restriction either specifically mentioned in the subdivision deed or by attaching the resolution to the subdivision deed. It may be easier to do the former as it may get lost in the resolution. Mr. Bergman and I can work that out. Compliance with the recommendations set forth in the reports of Mr. Simmons and Ms. Caldwell, in particular but not necessarily in limitation in terms of Mr. Simmons's report, satisfaction of Mr. Simmons relating to the Stormwater Management Plan which has not been fully developed yet. A condition requiring that the applicant be responsible for maintaining the proposed pressure lateral all the way from the building to the modified

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manhole on High Street. Compliance with the landscaping recommendations to the satisfaction of Mr. Simmons. Compliance with items 13 and 14 of Mr. Simmons's report to his satisfaction; an as-built to the satisfaction of Mr. Simmons and myself as is required by statute within 90 days of the adoption of the resolution.

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

**Aye: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Russo, Mr. Levante, Mr. Elvidge, Mr. Le Frois.**

**Motion carried.**

Ordinance 2018-2 Permitting Tattoo Parlors in certain districts in the Town of Newton.

Ms. Caldwell gave an overview of the ordinance permitting tattoo parlors in certain district. She reviewed the districts within the Town. They will now be permitted

Mr. Soloway stated: The task of the Board is to report back to the Council with any inconsistencies with the Master Plan in terms of the proposed ordinance. Other than that you can recommend. If you find it is inconsistent it doesn't prevent the Council from adopting the ordinance. Ms. Caldwell may be able to speak to this.

Ms. Caldwell stated: I would say it is not inconsistent with the Master Plan.

Mr. Marion questioned: Could we ask to reduce the number of zones? I would prefer to see it downtown rather than on the outskirts. I wouldn't want it in the business residential area. I see it more in the business district.

Discussion ensued about the different districts.

Mr. Soloway stated: The Board will need to transmit through Mrs. Citterbart that the ordinance is or is not inconsistent with the Master Plan. If you have any recommendations you can add this in if you agree.

Mr. Marion stated: My proposal is that we eliminate SD-9, SD-3, and T-4 from this ordinance leaving T-5 and T-6. Do you want to take a poll on that.

Mr. Le Frois did a straw poll of T-5 and T-6 and SD-3, while eliminating T-4 and SD-9. Four members would vote in favor of it.

Mr. Soloway made a motion to make a finding that the ordinance is not inconsistent with the Master Plan and also to recommend to the Council that it deletes the T-4 district from the districts that would be permitted and have Mrs. Citterbart transmit this finding to the Town Council. So it is recommended in the T-5, T-6, SD-3 and SD-1 zones.

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

Mr. Le Frois made a motion to transmit the findings to the Council. Mr. Marion seconded it.

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Aye: Mr. Marion, Mrs. Larsen, Mr. Butterfield, Mr. Wink, Mrs. Vrahnos, Mr. Russo, Mr. Levante, Mr. Elvidge, Mr. Le Frois.

**CORRESPONDENCE**

Engineer's 2017 End-of-Year Report dated November 20, 2017.

New Jersey Planner November/December 2017

**DISCUSSION –**

Mr. Simmons stated: The Martins have posted various bonds over the years for various projects along Water Street and North Park Drive. Over the years we've reduced them. I've had to write to the Town Council recommending that they issue a refund to the Martins. I just wanted to make sure you were also aware. It is for the area around the Holiday Inn Express and the Applebee's and also the vacant pad where they have a proposed future use. There were some bonds in that area and some striping on the intersection at North Park Drive which is an ongoing condition that they have to maintain the striping in that area. If you come out of Applebee's onto the perimeter road there is an ongoing condition they have to maintain as far as keeping the vegetation cut back for site distance. They are still in the process of looking for someone for the third pad. I have sent a letter to the Town Council that they reduce and refund that bond, but I wanted the Board to be aware of why I'm suggesting that. Mr. Soloway may weigh in on the new State law that has been passed regarding bonding. If and when someone comes in for the pad site, it is something that will bond at that time. In all fairness to the Martin's they don't know if it will be a month or a year or 20 years. This bond has been part of that package for many years and we are trying to clean it up. I don't know if it is just to put it on the record.

Mr. Soloway stated: It is just informational for the Board. It is a Town Council decision and not the Board's.

**EXECUTIVE SESSION** - None

**PUBLIC PORTION** - None stepping forward

**ADJOURNMENT**

**Mr. Marion made a motion to adjourn the meeting. Motion seconded by Mr. Butterfield. The meeting was adjourned at 10:45 PM with a unanimous "aye" vote.** The next meeting will be held on April 18, 2018 in the Council Chambers of the Municipal Building.

Respectfully submitted,  
  
Katherine Citterbart  
Planning Board Secretary