

TOWN OF NEWTON
PLANNING BOARD
JULY 15, 2020
MINUTES

The regular meeting of the Newton Planning Board took place on the above date via ZOOM. 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: None

ROLL CALL: Was taken

Attendance: Mr. Flaherty, Mr. Marion, Mrs. Vrahnos, Mrs. Hall-Romer, Mrs. Diglio, Mr. Russo, Mr. Ragsdale, Mr. Couce, Mr. Le Frois

Excused: Mr. Wink, Mr. Flynn, Mr. Schick

Professionals present: David Soloway, Esq. of Vogel, Chait, Collin & Schneider

David Simmons, Harold E. Pellow and Associates

Jessica Caldwell, J. Caldwell & Associates

THE SUNSHINE STATEMENT: Was read.

CONSIDERATION OF MINUTES

June 17, 2020

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A motion was made by Mr. Flaherty and seconded by Mr. Ragsdale to approve the June 17, 2020 meeting minutes.

AYE: Mr. Flaherty, Mr. Marion, Mrs. Vrahnos, Mrs. Diglio, Mr. Russo., Mr. Ragsdale, Mr. Couce, Mr. Le Frois

The motion was carried.

HISTORIC RESOLUTIONS

None

RESOLUTIONS

Weis Markets, Inc. (#P-3-2020)

119 Water Street

Block: 9.03, Lot: 16

The Resolution grants approval for a use variance and preliminary and final site plan approval with related bulk variances, to construct a gas station.

A motion was made by Mr. Ragsdale and seconded by Mr. Marion to approve the resolution.

AYE: Mr. Flaherty, Mr. Marion, Mrs. Vrahnos, Mrs. Hall-Romer, Mr. Russo, Mr. Ragsdale, Mr. Couce, Mr. Le Frois

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The motion was carried. Resolution approved.

OLD BUSINESS:

None

NEW BUSINESS

Newton Commons Condo Association, Inc. (#P-1-2020)

Portion of Common Are between 63 Plainfield Avenue and 68 Plainfield Avenue

Block 12.01, Lot 1; Block 12.09, Lot 1

The Applicant is requesting a minor subdivision and D-2 variance (Applicant has requested an extension from the May 20, 2020, June 17, 2020 and the July 15, 2020 meetings and to be carried until August 19, 2020 meeting with no further public notice.)

Merriam Gateway Redevelopment Plan Amendment

Block: 18.03, Lot: 10 (former Block 1104, Lot 22)

Block: 22.02, Lots: 8, 9, and 10 (former Block 1209, Lots 10, 11, 12.01)

Block: 18.02, Lots: 9, 10, 11, 12, 14, 15, 16, and 17 (former Block 1301, Lots, 1, 1.04, 10, 11, 12, 13, 14, 15, 16)

Block: 22.04, Lots: 1, 2, 3, 4, 5 (portion), 13, 14, And 15 (former Block 1308, Lots: 1 (portion), 1.01, 1.02, 10, 11, 12, 13, and 14)

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Mr. Soloway addressed the Board and stated: You are required to review the proposed amendment to determine if there are any inconsistencies with the Master Plan. If you determine that there are, you are required to notify the Council. You are also authorized to make any recommendations about the plan as you see fit.

Ms. Caldwell presented the Merriam Gateway Redevelopment Plan Amendment dated July 13, 2020 and stated: This addresses Sub-Areas A and B. Sub-Area A is Thorlabs temporary parking area. One aspect is to make this a permanent use if they choose so. Thorlabs would still have to come back to the Board to request the permanent use approval. With County requirements, easements, and area cleanup the future building size options are restricted.

Ms. Caldwell continued: Sub-Area B is the commercial area in front of the Merriam-Gateway Apartments. It is currently a gym but no longer a viable business due to COVID-19 restrictions. The property owner is looking for alternate uses and is working with a high end drug and alcohol treatment facility center based in Sparta and looking to expand to a second location. The patients would live onsite for 30 days for treatment and then move onto another facility. There are no exterior uses. Parking is sufficient. Patients will be dropped off at the site so parking is for employees and visitors only. The amendment would allow for the treatment center, parking requirements, and allow for the temporary lot in Sub-Area A to be permanent as long as the Railtrail is constructed, which according to Thorlabs has been done.

Mr. Flaherty questioned: Page 4, in the first paragraph, in the last sentence it indicates Sub-Area C. Should it be B?

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Ms. Caldwell stated: Yes. That is a typo. Additionally, Thorlabs noted that the Railtrail is complete and that off-street parking should be completely encompassed within Sub-Area B for any uses within that area. They also noted that Sub-Area B had all been merged. I will incorporate those changes as well before it is introduced to the Council.

Mr. Schick questioned: We use the term treatment centers. Do we want to say "licensed" or add something else to give it more definition?

Ms. Caldwell stated: There is a definition on the top of page 5. A treatment center is a medical use that provides drug and alcohol rehabilitation in a State licensed medical setting.

Mrs. Hall-Romer questioned: Are the patients Sussex County residents? When they leave the center will they have somewhere to go or will they be staying in Sussex County?

Ms. Caldwell stated: This is a high end treatment facility so they would be taken back to their residence. I don't know if they all live in the County but their main uses are in Sparta. They serve many in Sussex County but they are open to other counties.

Mrs. Hall-Romer stated: My concerns may not be the purview of this Board. Perhaps it is best brought up at the Council meeting. I have a problem with it because of the recent heroin arrests made in that area. I have to think about that.

Mrs. Vrahanos questioned: How many patients will be in the facility at a given time?

Ms. Caldwell stated: 20 to 30 people.

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Mrs. Vrahnos questioned: What does "high end" mean??

Ms. Caldwell stated: It is being paid for by the family members. It is not State run.

Mrs. Vrahnos questioned: Can we know the name of the treatment center?

Mr. Soloway stated: There may be somebody who is contemplating or proposing this but when you amend a plan to make it a permitted use you are making the use permitted and not necessarily this one entity. So the plan as amended isn't going to limit it to a high end facility. It just allows the use.

Mr. Le Frois stated: So anyone who wanted to put in a treatment facility, high end or not, could go there.

Mr. Russo stated: Plus, whatever goes there would have to come before the Board as the use is changing from gym to treatment center.

Ms. Caldwell stated: Yes.

Mr. Le Frois stated: But the use would be approved now. Is this use prohibited at this time in this area?

Ms. Caldwell stated: It is prohibited anywhere in this Town.

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Mr. Soloway stated: It is specifically prohibited in all zones. That being said, if someone wanted to file an application to allow such a use in the Town it would require a use variance. But it is probably an inherently beneficial use so they would have a much easier burden than a typical use variance applicant. So there might be good reasons to acknowledge that reality and try to pick the place or places that one might go for that use.

Mr. Le Frois stated: A lot of kids walk past the Gateway Apartments and the crossing guard is there at Merriam Avenue. That is a slight concern for me.

Mr. Marion stated: If we say yes to this as a treatment center does it mean any kind of treatment center can go there in the future?

Ms. Caldwell stated: They would have to meet the definition.

Mr. Ragsdale stated: I would be concerned with loitering; patients smoking outside. Even high end facilities may have an issue.

Mr. Marion stated: There is no lawn area for the patients to relax. I don't know if it really fits as a treatment center based on how it is built and the properties around it.

Mrs. Vrahnos stated: When I think of a treatment center, I think of Sunrise House with lots of open space.

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Discussion ensued on concerns with school kids walking past the facility every day and the potential for unsafe situations. Also, the building does not seem suitable. They should have outdoor secluded areas. Loitering would likely be a problem. Might be a better drop in, not live in facility.

Hearing opened to public.

1st Public: Mark Jarrell, owner of RetroFitness, commented on the Sparta facility. He is familiar with the owners and how they operate. For outside time they take patients to another location. Patients are always monitored and supervised. Patients live in the facility in Sparta and spend time in day center. He lives on Oak Street in Newton. Can't make gym work with new COVID regulations. Garden State Treatment Center model is very regimented. No loitering.

2nd Public: Robert Boyle, from Planet Networks. Sparta treatment center is one of his clients. Interior is like a high end spa. Not institutional.

Portion closed.

Mr. Le Frois questioned: Can the treatment center definition be modified to reflect what is looking to be done now? Right now it just states that it is a detox, treatment center.

Mr. Russo stated: We could do a recommendation along those lines. Jessica could put that together.

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Mr. Le Frois questioned: Could you require a security officer during school times?

Ms. Caldwell stated: We could add that and it could be a conditional approval.

Mr. Soloway stated: You can just save that for site plan. It has to be in the plan itself. If you have an application for site plan approval that conforms with the ordinance the Board doesn't have much dispute.

Ms. Caldwell stated: I would make it a conditional use. When is the next Council meeting?

Mr. Russo stated: August 10 is the next Council meeting.

Mr. Soloway stated: If you make any significant changes to the plan before you it would have to go back to the Council. So you could come up with a revised plan in preparation for the August meeting.

Mrs. Hall-Romer questioned: If we approve this property for this use, does that mean someone else can come to us for permission for a similar use elsewhere in Newton?

Mr. Soloway stated: Yes. Someone else, meeting the definition and requirements of the plan would be able to seek approval for that use but only within the plan area. It is not Town wide.

Mr. Le Frois questioned: Does this give any footing to other applicants looking to put this in other areas of the Town?

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Mr. Soloway state: Not necessarily. It might make an application for a use variance a little easier if they meet the standards. It might make it slightly harder for them because there will already be one in Town. One could make an argument that there is less of a need. It could be argued either way.

Mr. Marion questioned: Maybe we should really say this is not a permitted use here. When we try to make things work and are adding many requirements, maybe that means it doesn't really work. We then have to worry about who will have to police it.

Mr. Soloway stated: You need to put together a letter to the Council. First, whether it is inconsistent with the Master Plan. If so, what are the inconsistencies? Second, you have the right to make recommendations. That would have to be done by the majority of the Board. This could go two ways. One is a motion to recommend the Council not approve this because the majority of the Board does not believe it is an appropriate location for this use. The other is a motion for the Council to consider adopting more standards, requirements, and recommendations for this type of facility. I heard specifically tonight, that having a security officer and/or security measures in place particularly during times when school children pass to and from school might be recommended. Or perhaps putting a limit on how many patients can be accommodated. There seems to be no outside area that needs policing. Those are examples of what you could consider proposing to the Council.

Mr. Flaherty questioned: So if we recommend to the Council that we feel it's not an appropriate use they could still go ahead without any of the proviso's you mentioned and adopt this?

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Mr. Soloway stated: They could but there is a super majority voting requirement and the Council would have to make specific findings in addressing the recommendation and why it chooses not to go along with it.

Mr. Le Frois questioned: Do we need to come up with a reason it is inconsistent?

Mr. Soloway stated: Nobody has said anything that shows this is inconsistent with the Master Plan. The focus has not been on this. It's been on is this even a good thing?

Mr. Marion questioned: Is the parking lot capable of handling a bus to drop off the patients. It seems to be asking a lot of the little parking area.

Mr. Soloway stated: It will not be a permitted use application.

Mr. Diglio questioned: Will this allow the owner to take the facility off the tax roll?

Ms. Caldwell stated: They will be leasing it so it won't be taken off the tax roll.

Mr. Russo stated: Looking at their website, they have credentials, virtual tour, and pics. It appears to be a high end facility. I understand the concerns, but I think adding conditions would be reasonable.

Mr. Marion stated: A concern is what if the tenant moves out, who will come in?

Mr. Le Frois stated: The new facility would have to match the same conditions.

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Mr. Soloway stated: I suggest that first someone make a motion to find the entire amendment not inconsistent with the Master Plan but recommends to the Council that with regard to that part of the plan amendment that addresses the treatment center that the Board finds it is not an appropriate use at this location. If that motion carries then I don't think you have to get into what kind of conditions. If that motion doesn't carry, then you'll do the motion with conditions.

Mrs. Vrahnos made a motion to find the entire amendment not inconsistent with the Master Plan and also make a recommendation to the Council that the specific part of the amendment that deals with the treatment center is an inappropriate use for this area. Mr. Marion seconded the motion.

Aye: Mr. Marion, Mrs. Vrahnos, Mrs. Hall-Romer, Mr. Ragsdale

Nay: Mr. Flaherty, Mrs. Diglio, Mr. Russo, Mr. Couce, Mr. Le Frois

Motion failed, 5 to 4.

Mr. Russo made a motion to find the entire plan not inconsistent with the Master Plan with the following recommendations to the Council to consider adopting standards, conditions, or requirements as part of the plan related to the treatment center to address various concerns, not necessarily limited to security; the mobility of patients going in and out of the facility; limiting the number of patients; requiring JCAHO accreditation; and in general ensure it is a quality facility of this type. Mrs. Diglio seconded the motion.

Aye: Mr. Flaherty, Mr. Marion, Mrs. Vrahnos, Mrs. Hall-Romer, Mrs. Diglio, Mr. Russo, Mr. Couce

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Nay: Mrs. Vrahnos, Mr. Ragsdale

Motion approved.

CORRESPONDENCE

None

EXECUTIVE SESSION

None.

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

Mr. Marion made a motion to adjourn the meeting. Motion seconded by Mrs. Diglio. The meeting was adjourned at 8:24 PM with a unanimous "aye" vote. The next meeting will be held on August 19, 2020 via ZOOM.

Respectfully submitted,



Katherine Citterbart

Planning Board Secretary

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