

AUGUST 17, 2022

The regular meeting of the Newton Planning Board was held at the Town Hall and via the web base platform Zoom on August 17, 2022. Chairman LeFrois called the meeting to order at 7:06 pm. Chairman LeFrois stated that proper notice had been given for this meeting in accordance with the "Open Public Meetings Act."

Chairman LeFrois led the Salute to the flag.

ROLL CALL

Mr. Flaherty – present

Mr. Wink – absent

Ms. Hall-Romer – present via Zoom

Mayor Schlaffer – absent

Mr. Le Frois - present

Mr. Schick – absent

Mr. Marion – present

Ms. Vrahnos – present

Deputy Mayor Teets - present

Mr. Russo, Jr. - present

Mr. Ragsdale – absent

Ms. Le Frois - present

Also present: Glenn Kienz, Board Attorney, David Simmons, Board Engineer (Zoom) and Cory Stoner, Alison Kopsco, Board Planner, and Kerry Brown, Board Secretary

Chairman LeFrois read the rules of the Newton Planning Board.

MINUTES

Mr. Marion made a motion to adopt the June 15, 2022 minutes with the correction that Mr. Flaherty was present. Mr. Flaherty seconded the motion.

AYE: Mr. Marion, Mr. Flaherty, Deputy Mayor Teets, Mr. Russo, Ms. LeFrois, Mr. LeFrois

HISTORIC RESOLUTIONS

No Historic Resolutions were presented.

RESOLUTIONS

Thorlabs, Inc. PB-2-2022

56 Sparta Avenue, Block 18.03, Lot 11, Zoning District Sparta Ave Redevelopment District Amended Preliminary and Final Site Plan application for expansion of outdoor chemical storage shed.

Mr. Flaherty made a motion to approve the resolution. Ms. Le Frois seconded the motion.

AYE: Mr. Flaherty, Ms. Le Frois, Mr. Russo, Mr. Marion, Deputy Mayor Teets, Mr. LeFrois

NEW BUSINESS

Lakomy - 64 High Street PB-4-2022

Application seeking reversal of Andrea Vaccariello PB-1-2022

26 Church Street Block 7.05, Lot 12

Appeal of the Zoning Officer's decision of denial of fence.

Mr. Frank McGovern, attorney for Mr. & Mrs. Lakomy
Linda and Chester Lakomy, applicants

Mr. McGovern introduced his clients. Mr. McGovern explained that his clients are present tonight seeking a reversal of Mr. Vaccariello's January 19th decision to install a 6-foot fence along portions of the rear property and parking area. Mr. Mc Govern provided a detailed description of his client's property and the surrounding properties. Mr. Mc Govern stated that the property is unique as it abuts 26 Church Street and has numerous easements, not only for his client's property, but several of the adjoining properties. Mr. Mc Govern at this time provided a time frame from when the easements were first recorded in 1903 and testified that his clients purchased the property in 1984. Mr. Mc Govern stated that when the Lakomy's purchased the property, it had the easement for the access and that up till a year ago, there were never any issues with the easement. Mr. Mc Govern stated that since the time Mr. Vaccariello purchased 26 Church Street, issues have started arriving.

Mr. McGovern entered into evidence a Deed dated July 24, 1988, to Lakomy which evidenced the 8-foot-wide Easement. Mr. McGovern also provided a survey showing all dimensions along with a meets and bounds Deed showing the 8-foot-wide strip and stated it was important because everything along this area had been in existence since what appears to be as early as 1903 and carried through to 1984 when Ms. Lakomy took possession. Mr. McGovern indicated that the documents also showed the wire fence was not there in 1984. Ms. Lakomy testified that they always entered their site from Route 94 and that for the 34 years before Vaccariello purchased, there was never any obstruction.

Mr. McGovern entered a Deed to Vaccariello dated November 20, 2022 along with a survey by Greenway dated January 27, 2020 that made it clear that the Easement services Lots 14, 15 and 16. Mr. McGovern stated that it was his position along with his clients that the fence installation significantly changed their rights and abilities for safe ingress and egress and created a number of additional concerns, including blocking emergency vehicles from coming onto the parcel and devaluation of the house. Mr. McGovern also provided a title policy and a complete narrative which is made part of this application.

Mr. Vaccariello was sworn in and testified that it was his opinion the garage interfered with the 8-foot-wide Easement and that the lot, therefore, could not be adequately used. Mr. Vaccariello did not provide a copy of his title policy.

Mr. Simmons, the Planning Board Engineer testified that he reviewed the documents, and it was his opinion that the Greenway Survey reflected the fact that Lot 14 had rights to the Easement and the Easement clearly existed. Mr. Simmons also noted that the previous Board decision was not based upon all the information now before the Board.

Ms. Brown, the Zoning Officer, acknowledged that at the time of her initial decision, she was not provided with all the detailed information supplied by Mr. McGovern at this hearing.

The meeting was opened to the public and there were no members of the public present.

Ms. Vrahnos made a motion to rescind the Planning Board's decision on January 19, 2022 application PB-1-2022 26 Church Street Block 7.05, Lot 12 based on the new information provided to the Board tonight and to direct the Zoning Officer and the Construction Official to take action on the matter and Mr. Marion seconded the motion.

AYE: Mr. Vrahnos, Mr. Marion, Mr. Flaherty, Ms. Hall-Romer, Mr. Russo, Deputy Mayor Teets, Ms. Le Frois, Mr. Le Frois

Application PB-4-2022 approved.

Newton CB, LLC PB-5-2022

117 Water Street Block 9.03, Lot 15, Zoning District SD-3

Site plan, variance, and conditional use application to use existing retail space for Class 5 Retailer license (cannabis retail).

Mr. James Scott, Attorney for applicant
David Romano, Vice President of Newton CB, LLC
John Williams, Attorney
Jason Engelhardt, Engineer
Joseph Marra, Architect
Eldridge Hawkins, a security consultant

Mr. Scott stated that he is representing Newton CB, LLC seeking site plan approval, conditional use approval and waivers for sale of cannabis. Mr. Scott described the property has frontage on Water Street and is located in the SD-3 Zone which conditionally permits the retail sale of adult use cannabis. Mr. Scott confirmed there would not be cultivation of cannabis on the site.

Mr. David Romano stated that the name of the applicant will be changed to Skylands Herbal LLC. Mr. Romano stated the Romano family has been a part of the Sussex, Morris, and Warren Counties business communities for more than 95 years. Mr. Romano explained their businesses are family-owned and they give back to the communities they serve. Mr. Romano explained that the sale of cannabis will be a new enterprise for the family. Mr. Romano testified the applicant will establish an advisory board of professionals from the medical community and will partner with higher education to facilitate research on the medical applications of cannabis and develop a student internship program.

Mr. Williams provided the status of the applicant's submission to the Cannabis Regulatory Commission and informed the Board, that the application has not been approved as of today.

Mr. Williams testified that product is tracked from the grower to the transportation to receipt by the facility.

Mr. Engelhardt went over the site plan submitted to the Board. Mr. Engelhardt explained the site is slightly smaller than one-half an acre. Mr. Engelhardt testified the property was the former Carpet Galaxy Carpet One retail store which includes 12 parking spaces. Mr. Engelhardt stated there is about approximately 75 feet of frontage on Route 206/Water Street. Mr. Engelhardt provided the surrounding properties. Mr. Engelhardt also stated there is one (1) access point off Route 206/Water Street.

Mr. Engelhardt described the proposed site improvements including repaving the parking, curbing, and restriping of the parking lot to include a code compliant handicap space. Mr. Engelhardt testified there will be four (4) new exterior parking spaces, a new access ramp on the north side of the building and new fencing around the perimeter of the property. Mr. Engelhardt also stated a 4-foot black aluminum decorative fence will be installed along the north and side border of the property and a 6-foot fence in the rear of the property.

Mr. Engelhardt provided detail to the new stormwater collection. Mr. Engelhardt stated that the applicant would be using the existing front pylon sign.

Mr. Engelhardt stated the applicant proposes to install a series of wall-mounted lights, and canopy lights along the front of the building. Mr. Engelhardt stated the landscaping plan will provide a buffer between the applicant's property and the Weis Supermarket property. Mr. Engelhardt testified there will be some low-level plantings around the proposed signage. Mr. Engelhardt stated the proposed landscaping for the grass strip between the property and the carwash is not practical because that is the location where snow mounds will be placed.

Mr. Marra stated the property contains an existing 4,478 square foot building and the applicant intends to use 2,085 square feet as the retail cannabis store and an additional 415 feet as a community outreach meeting room, a handicap bathroom, and a utility room. Mr. Marra also stated there is also a common area which will serve as a separate entrance and will also serve as a secondary means of egress for the proposed cannabis store.

Mr. Marra stated customers will enter the front door on the west elevation and will enter a waiting room. Mr. Marra testified the customers will not be admitted to the sales area until all other patrons in the store departs. Mr. Marra also testified the number of individuals in the sales area will be controlled by an electronic lock that will always be open for egress but cannot be opened for ingress until the customer is able to be admitted. Mr. Marra stated there will be a sally port for the receipt of product and access to the sally port will be limited to employees. Mr. Marra testified that 1,726 square feet of additional space will be unoccupied and could be used by another tenant in the future.

Mr. Marra stated the applicant wishes to reserve the right to have an 8 square foot sign in each of the nine (9) windows.

Mr. Hawkins stated the security plan exceeds the requirements of State statute. Mr. Hawkins went into detail and explained there will be a dedicated security manager who will ensure the daily requirements are met. Mr. Hawkins further explained there will be interior and exterior

cameras with zoom capability and an alarm system. Mr. Hawkins testified the security manager will be SORA certified by the State of New Jersey.

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The Board members stated the Police Department should review the security plan. The Board also determined should traffic become an issue, the applicant will work with the Town and the Police Department to ensure there is always safe ingress and egress to and from the site onto New Jersey State Highway Route 206.

Mr. Russo made a motion to approve the application as presented. Mr. Flaherty seconded the motion.

AYE: Mr. Russo, Mr. Flaherty, Mr. Marion, Ms. Vrahnos, Ms. Hall-Romer, Deputy Mayor Teets, Ms. Le Frois and Mr. Le Frois

Application PB-5-2022 approved.

CORRESPONDENCE

The NJ Planner magazine for May and June 2022 was distributed.

PUBLIC PORTION

Chairman LeFrois opened to the public. At this time no one from the public came forward. Public portion of the meeting was closed.

EXECUTIVE SESSION

Chairman LeFrois stated that there were no items scheduled for executive session.

Motion to adjourn the meeting was made by Mr. Russo and seconded by Mr. Marion. All in favor. The meeting was adjourned at 10:50 pm.

Respectfully submitted,
Kerry Brown
Planning Board Secretary