

NEWINGTON TOWN PLAN AND ZONING COMMISSION

July 23, 2008

Regular Meeting

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut

I. ROLL CALL

Commissioners Present

Commissioner Fox
Chairman Hall
Commissioner Kornichuk
Commissioner Pane
Commissioner Pruet
Commissioner Schatz
Commissioner Camerota
Commissioner Ganley
Commissioner Niro

Commissioners Absent

Staff Present

Ed Meehan, Town Planner

Commissioner Ganley was seated for Commissioner Correll.

II. PUBLIC HEARINGS

None

III. PUBLIC PARTICIPATION (relative to items not listed on the Agenda-each speaker limited to two minutes.)

None

IV. MINUTES

July 9, 2008 – Special Meeting
July 9, 2008 – Regular Meeting

Chairman Hall: The Regular Meeting of July 9, 2008, we did not receive July 9th Special Meeting, that will be in our packet next time.

Commissioner Fox moved to accept the minutes of the July 9th, regular meeting. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion with seven voting YES.

V. COMMUNICATIONS AND REPORTS

Ed Meehan: Just a quick summary of the downtown revitalization committee public informational meeting. Copies of the power point presentation are available for the Commission members. We had a pretty good attendance that night, I think between thirty and thirty-five people were in the audience, four or five people spoke, asked questions and made comments. This was the first of two or three more informational meetings that this committee will have as the process moves forward. The next push that we are going to make is within the next two weeks we'll be prepared and publicizing a request for proposal to bring a consultant on board to help with the design of the municipal parking lot. We've been collecting a lot of ideas, about focal points and uses and drainage and property acquisition and so forth, that the selected contractor will have to work with and the target would be that the committee would have conceptual plans early this fall, and by early I mean mid-November I should say, to share with the public and Commissions again, and then start going into more formal design documents in 2009 and at that point again, they would touch base with the board and Commissions, particular TPZ because of the effects that the plan could have on the municipal parking lot plan which this Commission set in motion back in the '70's as did the Development Commission and get your input at that point. So that is just a quick thumbnail of where we are.

VI. NEW BUSINESS

None.

VII. OLD BUSINESS

- A. **Petition 25-08 – 580 Church Street, Three Angels Seventh Day Adventist Church, owner and applicant, represented by James Cassidy, Hallisey, Pearson & Cassidy, Engineering Associates, 35 Cold Spring Road, Rocky Hill, CT 06067, Amendment of Special Exception Petition 03-05, “changes to architectural elevations”. Condition of Approval granted March 23, 2005, R-20 Zone District. Public Hearing closed May 28, 2008. Sixty five day decision period ends August 2, 2008. Continued from July 9, 2008.**

Commissioner Kornichuk moved that Petition 25-08 – 580 Church Street, Three Angels Seventh Day Adventist Church, owner and applicant, represented by James Cassidy, Hallisey, Pearson & Cassidy, Engineering Associates, 35 Cold Spring Road, Rocky Hill, CT 06067, Amendment of Special Exception Petition 03-05 “changes to architectural elevations.” Condition of approval granted March 23, 2005, R-20 Zone be approved with the following conditions:

1. The approved architectural elevations shall be the exterior elevations prepared by Zared Design Development Planning, 233 Blatchley Avenue, New Haven, CT revised dated 7/8/08, to show split HVAC rooftop units set 48” below grade at the southwest (Church Street) and northeast (Pane Road) corners of the building.
2. The below grade utility wells shall be screened with a decorative 4’ fence, wood or vinyl, depending on which material provides the higher sound mitigation. These utility enclosures shall be further screened with landscape plantings as shown on sheet 2 of 8 Site Layout and Landscape Plan.
3. Prior to the issuance of the Certificate of Occupancy the applicant shall retain an acoustical engineer to perform a noise test of each rooftop unit to determine compliance with the Town’s Noise Ordinance Standards for Residential Zones. The results of this test shall be submitted to the Commission and if compliance is not met,

the applicant shall make the necessary modifications to demonstrate the operation of the HVAC equipment will satisfy the Town Standards. When compliance with the Town's Noise Ordinance is certified by the applicant's acoustical engineer the Building Inspector will be notified.

4. It is a condition of this Special Exception approval that subsequent changes to the proposed church's architectural elevations may require a new Special Exception approval from the commission.

The motion was seconded by Commissioner Ganley.

Chairman Hall: Moved and seconded. Discussion, Ed, anything to add?

Ed Meehan: Just want to make the Commission members aware that there is a report from a licensed acoustical engineer on the table. It was requested by the Commission at your last meeting. It's from Cross Spectrum Labs, dated July 21st. The engineer is telling his client, which is Three Angels Seventh Day Adventist Church that the proposed HVAC systems will comply with the noise ordinance and they provide some decibel readings on page 3 of that report, and they documented with some of his findings and the engineer's resume is attached. So that was the documentation that the Commission asked for at the last meeting and in addition they also discussed, after the systems are in place a trial test and that is why suggested condition number three is in place, so that we get some real field measurements, sound measurements in the field. That's pretty much it.

Chairman Hall: Discussion from the Commissioners?

Commissioner Fox: I don't know if I'm off base or not, but the noise tests, will there be, of course when the machines are running, a particular time of the day, in other words, would it be done maybe at night when noise carries farther, rather than during the day when there is other noise around, number one. Number two, will the town have any say on what the quote, unquote necessary modifications will be? Will it be more mitigation through the fence, or landscaping or maybe a change in the engineering?

Ed Meehan: Well, the first part, the measurements would have to be taken twice, once during the day, and once at night, during the day light hours, I suppose it would be like mid-day, or it could be early in the morning, nine, ten o'clock, that's required by the noise ordinance, there are two decibel standards, so we would have to get those two.

As far as the mitigation measures, that I think would have to come from the professional acoustical engineer who would have to come up with some remedies that are going to meet the standards. The, if it affects the site plan, or the architecture of the building, it may have to come back to this Commission. If it's something to do with the mechanical changes to the units, maybe putting something directly on the units, inside the well that don't affect the site plan and the architecture, maybe it can be handled that way. So I don't have an exact answer for you.

Commissioner Fox: Okay, thank you. It's close enough.

Chairman Hall: Any other comments or questions?

Commissioner Pane: The noise is just one item. There's a lot of answered questions, the public hearing got closed early, the public didn't get a chance to talk about the change in the architecture on some of it that got changed, the noise level, the kitchen, the handicapped parking space, from what I understand, there are several pages of unanswered questions in the building department, and I take offense to the fact that the Chairman has not provided this Commission

with another option, only an option to approve this. Usually, on controversial issues there is always an option A and an option B, one to approve and one to deny. I think this thing is being ramrodded down this Commission's throat and I find it insulting. That's it.

Commissioner Ganley: I take it that would be a no vote, then? I think that there is enough in paragraph three, in addition to what Commissioner Fox's remarks are and Ed Meehan's remarks, that there is enough on the record, that should conditions arise that we have enough latitude to address the particular kinds of things peculiar to that site, as it may square with what the sound should be versus what it turns out to be. I don't think we are handicapped, and I don't think we are locked in by what is in paragraph three, I think we have enough going for us that if what the acoustical engineer says because it hasn't been built yet, so he has just got an opinion about what the unit should do, however we don't know what the lay of the land is, we don't know how much stuff is going to bounce off the building, and go in different directions. I think we have enough latitude with paragraph three that allows us to do, that we can pass this and if something goes wrong, I think we are empowered to take corrective action.

Commissioner Fox: Just one more comment about the handicapped space, that would be in the next motion, the site plan. Thank you.

Chairman Hall: Any others?

Commissioner Pane: The point is, as you can see in this [Petition 70-06](#), from '06, 57 Church Street, there was an option B and there was an option A, okay? One to approve and one to deny and this Commission has always done that as a general practice and now, lately, I've noticed that it has not been done. I know that Michael Fox, when Commissioner Fox was on this board during '06, that it was done. I know that when I was previously on the board it was done, an option, several options were provided to this, the Commissioners so that if something was controversial the Commissioners could make a decision, and this has not been provided for us. Thank you.

Chairman Hall: Any other comments? For the record, we have discussed this on several occasions, it was not, now I may be wrong, maybe the Commissioners do feel differently. I do not believe it was ramrodded. We sat around this table and talked about it several times and if you will recall, this is a project that was previously approved. So they came back with some changes, we discussed the changes. The biggest concern appeared to be the HVAC, that's what we are addressing. There were changes on the architectural, there didn't seem to be a lot of controversy over that. We discussed it for several meetings. At the end of the last meeting, before we closed it, we asked if there were any other concerns, if there were any other problems, is there any reason why we shouldn't close it, and as a Commission we voted to close it. Now I'm not sure you were here that night.....

Commissioner Pane: I was here, I haven't missed, and Chairman, I would also like to state that the other proposal was approved and it was approved and it had the blessing from the neighbors.

Chairman Hall: Right.

Commissioner Pane: But this one obviously does not have that blessing from the neighbors, yet these Commissioners, you Commissioners are ignoring some of the feelings of the neighbors, and this is a Special Exception, and we have to consider the thoughts and concerns of the neighbors, and yet a lot of you are ignoring those, and that's all I have to say, I think, we've brought many things into the record here and a lot of things have been ignored and if you want to approve it, then that's okay. I cannot vote on this comfortably to approve this because there is too many unanswered questions. If they brought this back into us and had everything in front of

us so that we could study it, then maybe we could approve something, but they kept coming in late and late with new information, just not right.

Commissioner Schatz: Commissioner Pane is aware that there is a federal law that sometimes supercedes what sometime we want to do.

Commissioner Pane: They have an approved site right now, they could build what they have approval for, so we don't have to approve this, okay? I think you're mistaken.

Commissioner Schatz: Well, I think I understand it.

Commissioner Pane: They have an approved site, they could build what they want to build now. They come in with this plan, if it doesn't meet all of our requirements then we either deny it, or you approve it with conditions, but if it doesn't meet the conditions and you deny it, and then they come back.

Commissioner Fox: Madam Chairman, I'd like to call the motion before we get insulted even more.

Chairman Hall: Thank you.

The vote was in favor of the motion, with six voting YES and one NAY (Pane.)

B. Petition 26-08 580 Church Street, Three Angels Seventh Day Adventist Church, owner and applicant, represented by James Cassidy, Hallisey, Pearson & Cassidy, Engineering Associates, 35 Cold Spring Road, Rocky Hill, CT 06067, Site Plan Modifications to Petition 04-05 approved March 23, 2005. Continued from June 25, 2008.

Commissioner Schatz moved that PETITION 26-08 580 Church Street, Three Angels Seventh Day Adventist Church, owner and applicant, represented by James Cassidy, Hallisey, Pearson & Cassidy, Engineering Associates, 35 Cold Spring Road, Rocky Hill, CT 06067, Site Plan Modifications be approved based on the Site Layout plan prepared for Three Angels Seventh Day Adventist Church by Hallisey, Pearson & Cassidy, Sheets 1 to 8, Scale 1" = 20', revised dated July 8, 2008 with these modifications:

1. The walk leading from the north side of the building to Pane Road shall be constructed with concrete. This walk may be eliminated if permitted by the Newington Building Official and the Fire Marshal.
2. It is the Commission's preference that the proposed handicapped space located adjacent to Church Street be eliminated or relocated out of the front yard of Church Street.
3. Prior to the issuance of the project building permit the applicant shall post with the Town Manager a site improvement surety in accordance with Section 5.3.6 of the Zoning Regulations. The amount of this surety shall be determined by the Town Engineer but at a minimum it shall cover site erosion control measures, anti-tracking ramp, grading and stabilization of disturbed areas on the property, safety fencing and removal, backfilling the closure of foundation hole if necessary.
4. Driveway radii shall be changed from 15R to 25R to facilitate better turning access.

5. Owner to enter drainage agreement with the Town for Pane Road connection and file documents in Land Records.

The motion was seconded by Commissioner Ganley.

Chairman Hall: Discussion, Ed, anything to add?

Ed Meehan: No, I think two of these items are related to code requirements by either Fire or Building and so that is why they were added to the plan subsequent to the original approval based on the Fire Marshal's review. Hopefully, we have had discussions at staff that they will work with the applicant to address these. Item three, the site security bond I think it would be prudent to have that in the event that the Church cannot move forward as they tell the Commission that they plan to, to protect the area and secure it and to stabilize any problems there. That's why that is being recommended by staff.

Chairman Hall: Thank you. Further discussion, comments?

Commissioner Pane: Madam Chairman, just for the record, I object to this for the previous reasons stated for Petition 25-08. Thank you.

Chairman Hall: Other discussion.

The vote was in favor of the motion, with six voting YES and one Nay (Pane.)

C. Petition 70-06 – 57 Church Street, John A. Amaning applicant and owner, c/o Attorney Vincent Sabatini, 1 Market Square, Newington, CT 06111 request for Special Exception Section 6.7 Interior Lot R-20 Zone District. Denied January 10, 2007, appeal upheld by Superior Court, Judge Henry S. Cohn, March 26, 2008 and remanded for further proceedings by the Commission.

Commissioner Pane moved that Petition 70-06 – 57 Church Street, John A. Amaning applicant and owner, c/o Attorney Vincent Sabatini, 1 Market Square, Newington, CT 06111 request for Special Exception Section 6.7 Interior Lot R-20 Zone District. Denied January 10, 2007, appeal upheld by Superior Court, Judge Henry S. Cohn, March 26, 2008 and remanded for further proceedings by the Commission be approved based on the plan entitled "Special Permit for Rear Lot" Sheet 1 of 1, revised dated 12/18/06, prepared by BGI Land Surveyor for property of John Amaning, Scale 1" = 20"

The Commission finds that the following conditions of approval are appropriate for the development of this interior lot:

1. Prior to the Chairman's signing of the project mylar a double row of evergreen buffer plantings, spaced 7.5' on center, shall be shown along the south and west property boundaries. These plantings shall be installed prior to the issuance of the Certificate of Occupancy. These plantings may be either white pine, minimum size 5' or dark American Arborvitae, minimum 6' height.
2. The entire length of the driveway from the back of sidewalk to the new interior house shall be paved prior to the issuance of the Certificate of Occupancy. A notation shall be added to the plan to reflect this condition.
3. The sidewalk shall be replaced and reconstructed in accordance with the Town's standards and the driveway apron shall be approved by the Town Engineer.

4. Prior to paving the driveway the Town Engineer shall be contacted to inspect driveway grading and may require modifications to minimize storm water runoff onto adjacent northerly property.

The motion was seconded by Commissioner Ganley.

Chairman Hall: Discussion, and also in our packet each of us received the history and as we go around the table, I would like you to, if you are going to be voting on it, and most of us are seated, Tom and everyone on this side of the table. Not all of us were on the Commission the last time around, but we need to hear that you have familiarized yourself with the proceedings, that you have read the packet, and that you feel comfortable voting on this, having read and understood what took place prior to this evening. Pete, you were here.

Commissioner Kornichuk: Yes, and I read everything that came in, unfortunately I wasn't there when this vote took place the first time, I just have a few questions. Ed, this is definitely going to have a fourteen foot wide driveway?

Ed Meehan: That's correct.

Commissioner Kornichuk: All right. Now, what's going to happen about these two evergreen trees that are along side the driveway, if they get damaged? I know that one is right on the property line, and one is slightly over the property line.

Ed Meehan: On the northerly side of the property you are talking about?

Commissioner Kornichuk: Yeah, where the driveway is going.

Ed Meehan: The public hearing testimony as I recall when this question came up they were going to try to protect at least one of those trees which they think they can do, the second tree would have to be removed. The one that they are going to try to protect would depend on the root damage caused by the grading nearby.

Commissioner Kornichuk: Okay, and the only other question that I have I know, I was just looking for it, but I can't find, something about the water drainage. Don't we usually try to make, when something is being built, that the water drainage is better than what it is right now. If I'm not mistaken, when I read the packet, they said it was going to keep flowing the way.....

Ed Meehan: Yes, there's two, two real drainage areas on this site. There is the existing drainage area, where the water from the existing driveway and house flow across the front yard northerly toward the Methodist Church property. It's a very low flow, it goes across the lawn. The property to the north is a couple of feet lower, so that water basically is going to stay the same. There is no additional water going to that, other than what may come off this new driveway. That is why it is suggested here that before they pave the driveway the Town Engineer take a look at that, because fourteen foot by a couple hundred foot driveway depending on how it's pitched would direct water to either side of it, and the point of this suggested requirement is that that be evaluated in the field before it's paved so that the water is not directed to the northerly property in front, in front of the house.

The second drainage area is in the back where the proposed interior lot is shown on the plan. If you look at that, you will see that the contour lines which indicate the natural contours basically the water in that area would flow around the front of this house, where the entrance is, and the double car garage area is, and then around the back, northwesterly. It flows northerly, away from this property, and that is the way that the land pitches right now. So the area of concern that you may have seen in the minutes when this was first presented, was the possibility depending on

how the driveway is graded, as to what impact a sheet flow of water may have to the Methodist Church property, but the first sixty to seventy feet the property dips down on the Amaning site and goes back up, so in that area when this driveway is graded has to be looked at, that is what this is referring to.

Commissioner Kornichuk: All right, thank you.

Chairman Hall: Commissioner Schatz?

Commissioner Schatz: I was here at all the meetings, and I didn't approve this, and I was concerned with the water, I was concerned that the Methodist Church had two building lots down there that they had spent a considerable amount of money cutting out, and probably going to sell them, and that Methodist Church is basically built on wetlands, right now. It's a wet area anyway and I felt from hearing the surrounding neighbors and so on, that by having this house, we were going to infringe on their property. In the past I believe, if this is approved and so on, this approval goes with the property as I understand.

Ed Meehan: That's correct.

Commissioner Schatz: On some of these properties people do this, not necessarily to build a house but to make the property a little more valuable to somebody, to say, well, you have the right to build a house behind the house. I don't like houses behind houses.

Chairman Hall: But you have read the past, you were here, you feel comfortable voting on this, this evening.

Commissioner Schatz: Yes.

Chairman Hall: Thank you. Commissioner Pane?

Commissioner Pane: Yeah, I read everything thoroughly that I received in the packet today, I also today, this afternoon, I visited the site. I walked the site, I tried to knock on the door, but nobody was home. I inspected everything, I think that there is some natural buffer that is around the property and I think that the Commission writing up a double row of evergreens is an overkill and I would recommend, I don't like a white pine for a buffer because the white pines will tend to grow high, and you will lose the branches on the bottom and you will still see things. I would recommend an arborvitae and I think a four foot, one row of four foot arborvitae is sufficient. I think that this Commission is trying to overkill this and my feeling is that this probably should have been approved in '06. After reading everything, and knowing this history of rear lots in town, and thoroughly reading everything and visiting the site, that is my opinion. Thank you.

Chairman Hall: Commissioner Fox?

Commissioner Fox: Thank you Madam Chairman. I did read the packet the last couple of days and I did re-visit the site today, and personally, it's mostly moot, but I don't think they are going to be able to save those pine trees, there's a whole bunch of pine trees in the way of the driveway and as we said before, the grading on that couple of hundred feet of driveway is very, very important and like Commissioner Schatz, I really can't figure out where the water is going to go with all this extra impervious surface here because the contour lines do show where the footprint is of the new house, that goes around to the side, but there is a swale I think on one of the neighbor's properties. It looks like there could be a bunch of water collecting over here also, I think on the Kimball property, or what is now the Czelazewicz property. I agree with Commissioner Pane that white pine is not suited for this, I never thought white pine was suitable

for any kind of buffer anyway, I'd rather see the six foot arborvitae. I don't think four foot would be enough, you know, walk around the property, I think six foot would make for more privacy. There are more comments that I want to make but I think I'll hold onto them.

Chairman Hall: Commissioner Pruett?

Commissioner Pruett: I too was absent the night of the vote, with Commissioner Kornichuk, I read the materials in depth. I want to make a point that I think that the Commission acted in good faith, all along and that they are also acting in good faith now to put this to rest.

Chairman Hall: Thank you. Commissioner Ganley?

Commissioner Ganley: I was here through the entire process, I read everything, took part in all of the arguments back and forth, I'll feel very comfortable with how I am going to vote on this.

Chairman Hall: Thank you. Not to avoid the alternates, you won't be voting tonight, so my concern was to make sure that everyone who was going to vote did read the packet and does feel comfortable casting a vote this evening. I will put my two cents in as well. I have read, I actually sat through these, in a different position at that time, and I re-visited it, and read it all, and I do feel comfortable voting on this, this evening.

Mr. Meehan, there has been a little bit of a question as to the planting, if we have this in the motion, and we approve it, can we change that if we think that is something that is a better fit for the privacy or water retention, or whatever, just because we have it in there, does it have to stay that way?

Ed Meehan: You can change it right now. You can amend this motion.

Commissioner Ganley: I'll do exactly that, paragraph one, well, the motion has already been read, paragraph one, beginning with these plantings may either be white pine, minimum size 5' or dark American Arborvitae, eliminate these plantings, and shall be dark American arborvitae, minimum six foot height.

The motion was seconded by Commissioner Fox.

Chairman Hall: And is the maker comfortable with that amendment?

Commissioner Pane: Do you think a double row is necessary? There's a lot of already existing buffer that is there. There is an existing buffer that is over there. Why not just a single row?

Commissioner Fox: There is some type, yes there is buffering along the Czelazewicz property, but there are a lot of open spaces that is quite easy for them to lose their privacy, they have a pool right near the property line. I would like to see a double buffer line because a single buffer, you are going to have to have enough space, especially while they are young, for them to grow, and.....

Commissioner Pane: They're young, they're six foot high!

Commissioner Fox: But, while they are growing, I don't want to get into an argument here, I feel that the double row is necessary to fill in between....

Commissioner Ganley: Can we call the vote on the amendment?

Chairman Hall: We had one more question.

Commissioner Niro: What I would like to see you do instead is seven and a half footers and go every four foot.

Chairman Hall: Well, I know that you two are landscapers, you can add a lot here.

Commissioner Niro: Well, if you want to do it right, you can go single row, four feet on center, it's going to create a nice fence height, they are going to grow into each other and you are not going to have any problems. They are going to grow ten, twelve feet. Once you get to the size you want, you could top them and you're good to go. If you space them out seven and a half feet, you are still going to have a lot of space in between, that's not what the objective is, you want to keep it nice and tight. So it's probably the same amount of plant material, but if you do every four feet on center it's going to be nice and tight for you, and I think we're going to be happy and they are going to be happy, the neighbors. You are going to use the same amount of plant material but it's going to be you know, it's going to be tight, you're not going to be able to see through it at all, especially six footers, and you want to go with dark Americans over a different variety just because they are more, will grow together better.

Chairman Hall: All right, well, these are the landscape people that are suggesting that we do this, if somebody would like to amend again, or we let it stand.

Commissioner Ganley: Who seconded my motion?

Commissioner Fox: I did, I'll rescind it if you want to change.

Commissioner Ganley: Okay, withdraw your second.....

Commissioner Fox: I just did.

Commissioner Ganley: And I'll withdraw my motion.

Chairman Hall: Commissioner Ganley, would you like to make a new one? Well, no he can't.

Commissioner Ganley: I know that, were you copying notes Ed, because....

Ed Meehan: I'm taking notes, I'm taking comments.

Commissioner Fox: I'd like to strike, change the sentence, prior to the Chairman's signing of the project mylar a double row of evergreen buffer plantings, spaced 7.5 ' on center shall be shown along the south and west property boundaries, and replace that with, prior to the Chairman signing the project mylar a single row of dark American arborvitae spaced four feet on center shall be shown along the south and west property boundaries. And strike the last sentence and make that six feet, make that six to seven footers.

The motion was seconded by Commissioner Pane.

Chairman Hall: Moved and seconded, discussion on the plantings?

Commissioner Ganley: Yes, could you just read what we just did?

Chairman Hall: Can you read it back to us, Ed?

Ed Meehan: Okay, prior to the Chairman signing the project mylar a single row of dark American arborvitae minimum six feet height spaced four feet on center shall be shown along the south and west property boundaries.

Chairman Hall: And the second sentence, these plantings shall be installed will remain the same, and the last sentence starting with these plantings will be eliminated.

Ed Meehan: That's eliminated except for the last phrase which moves up to, replaces evergreen buffer plantings.

Chairman Hall: Having said that, can we vote on the amendment for the wording for number one.

The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Hall: Now, having amended the petition, we have a call for the approval of the petition itself.

The vote was in favor of the motion as amended, with five voting YES, and two NAY (Schatz, Fox)

VIII. PETITIONS FOR SCHEDULING (TPZ August 13, 2008 and August 27, 2008.)

Ed Meehan: Nothing listed on your agenda right now, but there are a couple of projects, they are not significant, but they are going to be coming in. One is a group that wants to do another car show, down at Price Choppers, called Connecticut Street Legends. They were involved with the Market Square/Chamber of Commerce show back in June. They said it was very successful, one of the best that they have had. They had a lot of members show up, they're trying to put another one together for the later part of August to benefit, hopefully the Newington Food Pantry and soup kitchens, so they are trying to put that together.

The second one is our Zoning Regulations, which I will talk a little about in the Staff Report, but we are going to be required to update our flood insurance standards. New maps were promulgated last May, we have 120 days to review the maps and change our zoning regulations and subdivision regulations. They are very minor changes but we need to do this before the end of September to stay in compliance. That's one change, and I will try to schedule that for your second meeting in August. A second change that we have talked about at staff level, it's come up before, a way to provide an administrative remedy where the Zoning Enforcement Officer can work with a household that has to put a handicapped ramp in that may be over a setback line. It doesn't happen very often, but when it does happen, it causes a lot of hardship for the household, because they have to go to ZBA. If they aren't in the right meeting cycle, it could take four to six weeks before you get the ZBA variance. We have looked at some other towns and they have an administrative remedy where the Zoning Enforcement Officer can issue a temporary zoning permit to get the ramp in on a temporary basis, then it's removed as the household situation changes. That would be an amendment to the Zoning Regulations which require your policy decision, and we would try to do that on the 27th of August also because you need new language for that.

The last item, we talked about at a prior meeting was this individual who wants to do a haunted house at the Sphinx Temple. Building Department looked at that, they don't have an issue as far as the building code, I have not heard back from the Fire Marshal yet although he has all of the certificates for the materials, as far as flammability, but that may be coming to you at your next meeting in August, because they want to get some lead time to plan that. So those are the items as far as Petitions for Scheduling.

IX. PUBLIC PARTICIPATION

(For items not listed on the agenda)

None.

X. REMARKS BY COMMISSIONERS

Commissioner Pruett: Ed, any other further inquiries on the Food Mart property there?

Ed Meehan: I have no information to share with you on that. None of the project people that we were dealing with during the spring, April and May who were coming in for building permits and posting the bond, have been around. You know, I hear different rumors, and that's exactly what they are. Two people who have businesses in the town center who, we're trying to get a town center merchants association started, so we had some meetings with them, and one of the things that you hear is that the project may have been sold, another one that I hear is that one of the principals is quite ill and not even giving full attention to this, so to answer your question, no. I did provide the postal manager, I think it's Tricia, again last week with a site plan. A couple of months back they were interested in relocating the mailboxes on Lowry into the parking lot, I think she is going to take another look at that. The snorkel-tube boxes, so you don't have to get out of your car, you can drive through, but that is the only activity that I have heard going on over there.

Commissioner Ganley: I was over on Brockett Street and they are doing a lot more grading, and they've driven some stakes into the ground, so it looks like the property may be a go, I know it's been on hold for a while. The last time, as I recollect when we talked about it, the first bids were kind of high, so the guy kind of stepped back a bit, but evidently he got one to his liking because he's moving ahead with it.

Ed Meehan: Yeah, they came in with the revised engineering reports for drainage and soil information. What you see going on now is the storm water detention basin being put in, the galley system. The project, site contractor is KTM, a local guy, so they have a lot of work to do there on the ground first before we see a foundation going in.

Commissioner Fox: DiCarpio's project, over on Deming Road, is that at a standstill? I haven't seen any work being done.

Ed Meehan: The project changed hands a couple of times, recently it was conveyed for \$800,000.00 to Deming Street LLC, I think. The owners there have got access to fill, and one of the owners happens to be Mr. Chris Chiuli, or he is a partner somehow in it, and some of the fill came from areas on Alumni Road, and he was in hot water with that, we got him squared away there. Long story short, they got permission to fill the site, they did follow the proper erosion control measures. They filled it to a point where they needed more fill to continue. We stopped them a couple of times because some of the material going in had bituminous in it, and some rubble in it, which wasn't suitable for what we need to do, and also the building department wants the soil tested, where the houses are going to go. We have been discussing with a couple of project engineers who are I guess going to give the owners proposals to redesign that site. It's our understanding that they are looking at trying to shorten the private cul-de-sac up a little bit to reduce some of the road costs, and also change the layout so they can eliminate the MDC pump station to offset the loss of units, maybe three or four units. That may be coming back to your board here, probably in another month, month and a half.

Commissioner Fox: Holiday Express?

Ed Meehan: Holiday Inn, the building department is still waiting for the project architect to respond on some of the questions on the actual construction or design inside, particularly the mechanicals. All the site work was done according to the Town Engineer's requirements for retaining walls and drainage, but it's at a standstill until they get the building permit.

Commissioner Fox: Thank you Ed.

Commissioner Pruett: Following up on the same locale, do you know when they have scheduled the demolition of that barn and silo, and also, is that house marked for demolition too?

Ed Meehan: Yes, the red house?

Commissioner Pruett: Yes.

Ed Meehan: Under the plan that was approved, the house is supposed to be removed and that corner, that little triangle converted to open space.

Commissioner Pruett: I thought so, and last, what is the time line for Sam's? They're going like gangbusters over there.

Ed Meehan: Sam's, I understand from talking to Pete Hobbs today, we were going over a bunch of projects in town, has been pushed out to late November, early December. Some problems with the general contractor down there. You know Pete's leaving, and we were talking about projects going on, there are a lot of things up in the air, you mentioned Holiday Express, Sam's, Brockett Street, Dunkin Donuts, which started their blasting last week, L.A. Fitness which is going to start pretty soon, Pulte Homes and Toll Brothers still chugging away, those are the big projects. The site remediation is complete on the Lowe property. The site demo contractor is supposed to come in with his demo permits pretty soon and start taking that building down. That was supposed to happen right after fourth of July, but it hasn't happened yet.

Commissioner Ganley: They are digging a hole to the north side of the building, yesterday.

Ed Meehan: Lowe's?

Commissioner Ganley: Yeah, right where, a back hoe and three or four guys and they are going just to the north side of the building on the, more toward the east, toward the front. They've got a large pit right there.

Ed Meehan: There may be things they have to take out of the ground there, they were supposed to have the tanks out of there a long time ago. The, we've been coordinating with the Police Department because they're going to need to have officers there a couple of days a week while this is going on because it is so close to the interchange. Our recommendation to the demo contractor is start in the back corner, start pulling the building back away from the intersection because the loading dock is right on the road there. It's a big building, it's not a big building in the sense that it's several thousand square feet, but it's all solid concrete and brick so it will take a while to get that out of there. Back to the Building Department and coordination with them, there are a lot of projects that we are trying to wrap up or get a good handle on. We talked about Three Angels Church before and with this approval tonight, they have got to get their plans back on track with the building department. Holiday Inn Express, those plans are significant, and there's a lot of, places of public assembly and hotels, there's a lot of issues that have to be looked at by the Building Department. There's some big projects.

Commissioner Schatz: DOT was on the Hayes property yesterday, driving around, and then when I came out of the Stop and Shop driveway, they were standing where that road would be I guess to go to the bus, and they looked bewildered.

Ed Meehan: Were they orange trucks? They could have been, were they panel trucks, the land surveyor trucks?

Commissioner Schatz: They were panel wagons with glass in them.

Ed Meehan: Okay, could be land surveyors. They did purchase, or by condemnation they took the bus station site, the four acre site down below Stop and Shop and there should be both ConnDot and the private sector engineer which is Close, Jensen and Miller doing the design for the busway station. That's what they should be doing there.

Commissioner Schatz: And, was that, you know we ask you a lot of things during the meeting, and you know, if I were you, it would drive me nuts, you can't be everywhere at once. Was that a septic tank over there?

Ed Meehan: I don't know, the Town Engineer is trying to talk to the project contractor. If that was a septic system that ConnDot didn't find it in their engineering plans, they had to have the records of it, if they hit it, building that wall, pushing it back, they should have replaced it with an MDC connection, a lateral connection, not put back another septic system, because our Health District asked me the same thing, we were talking about it the other day, because there has to be a leeching field to go with the septic system.

Commissioner Schatz: So the next question would be if that is a septic tank, who does the final inspection on state projects? They do their own?

Ed Meehan: For a septic tank, the Central Connecticut Health District has to inspect it.

Commissioner Schatz: Because when I have dropped them in, the engineer that engineered the project has to send the town a certificate stamped that it conforms to the plan.

Ed Meehan: Well, in that case, I don't know the whole story.....

Commissioner Schatz: I'm not making a big thing out of this but it kind of sits right up there.

Ed Meehan: They should not put a septic system back because they have a lateral, they have access to a lateral in the street, so they should go to the public sanitary sewer. Now I'll know more after we sit down with

Commissioner Schatz: And that nice wall in there, they've got a beautiful wall that they built and the septic tank is right on the right hand side just on the side of that wall.

Chairman Hall: If that's what it is.

Commissioner Schatz: If it is.

Ed Meehan: Just to go back to the site at the corner of Cedar and Fenn, we did file an application last Wednesday with the Connecticut Office of Brownfield Remediation for a half a million dollars grant for National Welding. The Town Attorney is here tonight, Mr. Ancona is working on foreclosure. We've presented an RFP to this Commission, drafted an RFP to you, a draft RFP to the Council. We hope to tune that up during August and go out to RFP and the grant

application that we submitted to the Department of Economic and Community Development leans very heavily on smart growth, transit oriented development, and the actions that this Commission took to change the zone and try to get the driveway out to Fenn Road with a traffic signal, so we hope that DECD will support that.

Commissioner Schatz: On that National Welding building, I mean, the whole building is asbestos, but that's not hard asbestos to get away from there, but also I would think that there is an oil contamination in that soil because they used to bring those big cases in to rehab them, they put jet engines in them from Pratt & Whitney and.....

Ed Meehan: There are two bad hot spots on that site, underneath the floor, there has to be, soil has to be excavated, but that is not as bad as the building. The building is about a million three to take down, we don't know what the soil contamination is going to cost yet, but we're really upside down with that site, it's worth maybe three or four hundred thousand and they owe us a million in taxes and it's probably three million dollars of remediation.

Chairman Hall: Any others? I have a couple of comments. Interesting point was made this evening. As you know, I have completed six months as Chairman, and it is a learning curve and if there is anything that you feel should be done differently with the Commission I would appreciate hearing from you. Not necessarily around the table during one of the meetings. I have voice mail, I have e-mail, I have a telephone, I have a cell phone. I think that up to this point we have gotten along pretty well. I also believe that we have resolved some issues that all of us agree on. We will never always agree, but I also hope that you feel comfortable bringing your dissent to the table, discussing it, bringing it out, and doing it with respect to others and with respect from others. I expect that from each of you, and by and large I get it from every single one. If there is something procedural, if there is a different way you want to do something, I would like to hear about it. I'm not a dictator, I'm not anything but someone who is trying to do the business of the town to the best of my ability. I do meet with Ed on a regular basis, we take what has gone on around the table, we compile it, we try to move it forward and we try to do it in the most expeditious manner possible. I don't feel that having two petitions that we have to deal with for every issue is the most expeditious way, however if you feel that for every item we need to have a petition read that denies something that we vote on, and then we have another petition that approves something that we vote on, and if we agree as a body to do that, we can. My attitude towards that is we're doubling our efforts. When we have something that we bring around the table to approve, if you don't approve of it, in discussion you tell us why, and then you vote it down. However, if that is not the way you want to do it, I would like to hear from you. If there are things that you think we can do better, I want to hear about it. I'm open, I am learning, but I'm also trying to do the best that I possibly can. Thank you.

XI. STAFF REPORT

- A. Bond Release Request – Stew Leonards.
- B. Proposed Zoning Regulation Amendments – National Flood Insurance

Ed Meehan: I mentioned a couple of the issues with the Zoning Changes for the National Flood Insurance.

Stew Leonard's bond release, I did talk to our contact at Stew Leonard's. They have been since the Commission asked them to get the area along the turnpike cleaned up, they have been trying to get their property owner to do that. They don't own that property. It used to be owned by Realm Realty, the project was then sold after several months, and the new owners are out of White Plains, New York. The people I talked to at Stew Leonard's have taken pictures, sent it to the new owners, trying to get them to come up and cut it. Basically they said that if it doesn't get cut by your next meeting, between now and the next meeting they will have a guy go up there

with a weed wacker, and they will cut it themselves, because they are as frustrated as you are. That is not what they intended when they asked for some of those trees to be taken out up there. That's where that stands. They are a very cooperative business in town, so I'm sure they'll come through for you.

Chairman Hall: Anything else?

Ed Meehan: Should I mention accessory apartments?

Chairman Hall: Yes, bring it up.

Ed Meehan: I do want to alert the Commission, since Ben is here, I had a conversation with both Ben and the Chairman today. The Hartford Courant has been after me to provide them with the Town Attorney's legal opinion, as well as the draft suggested changes for re-introducing accessory apartments, and any staff reports that I prepared. Vanessa from the Courant called me, e-mailed me, and cornered me last night after the Town Council meeting. I talked to Ben about that this morning and got his insight on it, your Commission being the client so to speak, and I talked to Cathy this afternoon, I guess this morning, and it was discussed at a public meeting, it was not done in executive session, it was done as part of a work project that this Commission took on when we got reassembled last winter, and it's been in and out of the minutes for several occasions, so it certainly is not anything that we are in litigation with, or any executive session, so after talking to the Chairman, I felt that the best thing to do was to release the information to the Courant and the Town Attorney's opinion letter, as well as the draft suggested amendments and my staff reports, and they have it, and rather than trying to play cute with it, let them have it, we didn't have a formal FOI on it, but let's see what story they do, so you may see a Courant story tomorrow on that, or it may never appear or it may appear in a couple of days. I didn't want it to catch you by surprise.

Commissioner Fox: That is the only thing you could do actually, because that is public knowledge.

Chairman Hall: Absolutely. If we go into FOI, that kind of stuff, it turns into a circus and where are we going to be? We're going to be no better off than what we are, so let it happen.

Commissioner Ganley: I don't know how this thing could actually be a controversy. This was discussed at an open forum in which people could have sat here anyway.

Chairman Hall: Correct. And if she wants to make a deal out of it, well, we deal with it, that's all. Anything else?

Commissioner Ganley: Yes. Thank Heavens that the Town Attorney is here. I overheard a conversation which troubles me, and I'd like to make a motion to go into executive session, it should be very brief, to discuss the nature of that conversation, which I just recently heard, within fifteen minutes ago.

Ed Meehan: Is it, what is the basis, is it real estate, is it litigation, is it personnel?

Commissioner Ganley: It's litigation, which may affect the town.

Ed Meehan: And we are in litigation now on this matter.

Commissioner Ganley: No, but what I heard, future litigation.

Ed Meehan: You have to be in litigation, not, is this something that you are sure is going to happen?

Commissioner Ganley: Based on a conversation that I heard, I'm troubled by what I just heard.

Ed Meehan: Well, normally, you go, if you are in litigation, you go into executive session with your Town Attorney or professionals for strategy matters, you know.

Attorney Ancona: Is it related to litigation that is pending?

Ed Meehan: Is it anything that we have going on now?

Commissioner Ganley: Okay....

Ed Meehan: Does it arise from an action of this Commission in the way of a petition?

Commissioner Ganley: Yeah, yeah it did.

Ed Meehan: Well, maybe that's more related then.

XII. ADJOURNMENT

Commissioner Ganley moved that the Commission go into executive session. The motion was seconded by Commissioner Pruett. The vote was unanimously in favor of the motion, with seven voting YES.

The regular meeting of the Commission was adjourned at 8:00 p.m. to go into executive session.

The executive session of the Commission was called to order at 8:00 p.m. The executive session was adjourned at 8:30 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary