

NEWINGTON TOWN PLAN AND ZONING COMMISSION

July 9, 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 Schatz
Commissioner Camerota
Commissioner Ganley

Commissioners Absent

Commissioner Pruett
Commissioner Niro

Staff Present

Ed Meehan, Town Planner

Commissioner Camerota was seated for Commissioner Pruett and Commissioner Ganley was seated for Commissioner Correll.

II. PUBLIC HEARINGS

A. PETITION 33-08 – 3066 Berlin Turnpike, Sphinx Temple AA ONMS owners and applicant, represented by Mr. Sam Frink, request for Special Exception Section 3.2.8 Charitable Event Car Show, July 26, 2008 at former golf driving range, PD Zone District.

Chairman Hall: Is the petitioner present, if so, come up to the podium please, state your name and address for the record and we will listen to your presentation.

Sam Frink : My name is Sam Frink and my home address is 38 Timothy Street here in Newington. We are going to have a car show on the golf range, which is right here. The golf range right there, we have it all outlined, and we are going to make a drive coming into the golf range from our parking lot. Right now we have a road going down there, we used to have a picker that went down and picked up the golf balls, so there is a road here going down, so we are going to utilize that and make an entrance for our event. As far as the traffic goes, we are going to keep it so that it doesn't back up on the highway. We also have a lot of parking in front of the building. If there are any questions, I'd be glad to answer them.

Chairman Hall: Ed, we'll start with you.

Ed Meehan: Who is going to be able to go down this drive, just the vehicles that are on display, or.....

Sam Frink: Yes. Just the show cars.

Ed Meehan: Just the show cars, okay.

Sam Frink: That is what we plan, and everybody else will park up on in the parking....

Ed Meehan: Up on top, okay. Will people be walking up and down at dusk or later in the evening when the visibility might be compromised out there?

Sam Frink: Well, we have those lights, we already have lights for the driving range.

Ed Meehan: What are the hours that you plan?

Sam Frink: Twelve noon to six.

Ed Meehan: So it will still be daylight, okay, that's what I was wondering. The other concerns I had when I first heard about this was, and you know the property better than I do, the concern that it could get soggy down there if we had a couple of days of rain.

Sam Frink: Well, we had all this rain, and we just mowed it, and we....

Ed Meehan: No problems?

Sam Frink: Nope.

Ed Meehan: Okay. Then lastly, making sure that the traffic is safe on Deming as far as the sight lines coming around the corner and up the hill, I would recommend that no vehicles park on Deming.

Sam Frink: We wouldn't allow that anyway.

Ed Meehan: Have them all come in the side.

Sam Frink: We're going to try to have some out front.

Ed Meehan: The show cars?

Sam Frink: No, not the show cars.

Ed Meehan: Oh you mean out front on the Berlin Turnpike side?

Sam Frink: Yes because we have quite a few parking spaces out there in the front and we also have use of Laz-E-Boys parking lot that is part of the agreement that was made between, we can use part of their parking lot.

Ed Meehan: Just to summarize, my biggest concern, and I think Sam has answered it was that no cars park on either side of Deming and that there be some sort of traffic control, either posting of temporary No Parking signs, the little red and white ones, or if necessary a police officer at the site entrance for a period of time. It's going to go for most of the daylight hours, that may not be

Necessary, but people travel pretty fast on Deming, so that might be something that you can talk to the police about, Newington Police. That's all I have.

Chairman Hall: Questions from the Commissioners?

Commissioner Ganley: The second two, "if determined to be necessary by the Newington Police Department, what I'm suggesting that that entire first sentence just be removed, and the applicant will be responsible to contact the Newington Police Department to work through the parking issues that may arise in connection with this, as opposed to say secure a police officer, because you just raised a very interesting issue about posting no parking signs. Obviously the event coordinator can't do that, the police department has to do that on a memo of understanding between the event coordinator and the police department which represents the Town of Newington, so I'm suggesting that that last sentence, the applicant is responsible to contact the Newington Police Department, and then add a clause, you know, comma, to work through the traffic and parking that may arise on that event. Then determine what is needed from the consultation.

Chairman Hall: Questions?

Commissioner Camerota: Are you going to have someone directing traffic so that they....

Sam Frink: We have our own police, we have what is called the Temple Guard and they are our police force.

Commissioner Camerota: And they will be there on the site that day then?

Sam Frink: Yes.

Commissioner Ganley: Will they be out on the public street?

Sam Frink: Will they be on the public street? No, they can't be on the public street.

Chairman Hall: Questions? I'm assuming that in the morning you will be gathering the cars and setting them up so that at noon, you will be open to the public and again, I assume you will probably make provisions that you will keep the public out until this is all set.

Sam Frink: We have talked about putting up a snow fence.....

Chairman Hall: A barricade, and then take it down when it's open to the public. Approximately how many cars do you think that you are going to have? No idea at all, you are just putting the word out that there is going to be a car show, come one, come all?

Sam Frink: Weather depends, if it's a good day, WDRC is advertising it also.

Commissioner Fox: Yes, through the Chairman, you are charging a ten dollar entrance fee for cars, no admission fee for spectators, and just going back to what Tom said, that can be reworded much more succinctly just like, contact the Newington Police Department for traffic information. Should the fire department be notified, I don't think so, but, do you Ed?

Ed Meehan: No, as long as the street is passable with the no parking, there should be no need for the fire apparatus.

Commissioner Ganley: The visitor parking, up at the Scottish Foundation building, what would prevent people from parking and walking all the way down Deming to the show?

Sam Frink: They can't, they can't get in. There's a fence up there right now. The net is still up.

Chairman Hall: Any other questions. I'm assuming that because this is Saturday, July 26th, and today is July 9th, that you are looking for action this evening, in order to give you time, because we don't meet again until the 23rd, and I don't think three days is going to be enough time to put this together obviously.

Commissioner Fox: I'll make a motion to move this to Old Business.

The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Hall: Anyone from the public wishing to speak in favor of this? Anyone wishing to speak in opposition to it? Anyone wishing to speak?

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

None.

IV. MINUTES

June 25, 2008 Regular Meeting

Commissioner Fox moved to accept the minutes of the June 25, 2008 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: I'll just talk about this quickly. I have a flyer that has been sent out to property owners and businesses in the town center and also inviting TPZ members, Economic Development members, Town Council members to this committee that is working to investigate the revitalization of the municipal parking lot with the grant that was awarded to the Town. So they are starting with an informational meeting next week, a week from tonight, just to give people the opportunity to express their ideas and feelings on how to make the parking lot better, so certainly TPZ has a role in this project because of the involvement that you have had historically with this, going back to the 70's when the plan, the concept started with the Development Commission and the plan jelled and came from Planning and Zoning, it was actually adopted by Planning and Zoning I believe in 1979 and the Commission endorsed the plan and then later modified your regulations to provide bonuses to help implement the plan. So I'll talk about this later under staff, but as this project evolves the Committee is looking for your guidance and input on this.

Chairman Hall: So if you are available, next Wednesday night in the Helen Nelson room, B & C, 7:00 p.m.

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 June 25, 2008.**

Commissioner Schatz 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 District, be postponed to July 23, 2008.

The motion was seconded by Commissioner Kornichuk.

Chairman Hall: Discussion? Ed, do you want to add something first?

Ed Meehan: Let me just bring the Commission up to date as to what has been going on since your last meeting. Relative to site plan, and that’s what this motion is about, on the table in front of you is the site plan, some of these sheets have been revised to reflect some changes that I want to call to your attention.

On the drainage plan, which is sheet 3 of 8, the engineering firm has revised it to connect the PVC pipe coming out of the utility well on Church Street directly into the catch basin system on this property. They have added almost two hundred feet of pipe, so that will go out and go into the system which is further to the east, the lower part of the parking lot. Originally the plan was to have it discharged into the open swale on Church Street. We had suggested modifying that and now the suggestion is to bring it into the existing system.

The second change on the list had to do with the sidewalks on the Pane Road side which were shown originally in bituminous and there were multiple sidewalks going out to Pane Road. That has been reduced back to one sidewalk composed of concrete leading to Pane Road. I’m not even sure if that is a code issue. That’s something the Building Department could look at. You have to have a landing when you come out of a building, for fire exit, but you have to have a route directly to the street. That is something that the architect, the project architect and the Building Department can discuss, but our standard in this case would be a concrete sidewalk and that is what they have done there.

Third, these plans are still showing a handicapped space up on Church Street. This is at the request of the Building Department. We discussed it several times, the applicant is going to ask for a modification from the State Building Office. I don’t believe that our Building Department is going to oppose that because of the situation with this building, this could be used as a drop off area with at grade access to the upper level of the church area, or the lower level has access to an elevator which also brings people to the main floor above. Mr. Cassidy also talked to me about the possibility of locating a handicapped space near the drive up area. The grade, in his opinion looks okay there, but you would have to extend the sidewalk. That is sort of a fall back position if the State doesn’t waive this requirement.

The other changes that were made affect the architecture of the building under the other petition. They do affect the site plan in one respect and that is the height of the fence for both utility wells, is now being shown at the correct height of four feet. These are front yard areas. That was an issue before, there was some confusion about what the height of the fence should be.

That’s pretty much it for the site plan, I can get into the architecture a little bit, I think they are both related, so I should keep you abreast of both things I think.

There is also a reduction, this came to me by internet this afternoon, so I blew it up and made copies for the Commission members, it shows both Church Street, west side, and Pane Road side elevations. What the applicant is proposing is to address the concerns of noise, fence height, you know the whole issue of visibility. They are going to go with a split system, which puts the plenums and the other part of this air handler/heat exchanger/air conditioner, puts just the compressor outside and puts the rest of the unit inside, and what that means is that they can put this down at the bottom of the well on a curved system, they don't have to have it forty-four, fifty inches in the air, for the plenum returns. You can see from this rendering, they have provided a profile of the height of what that unit would be, it's below the top of the well, these are both versa-lock wells, and then the fence, the four foot fence is on top of that, so they will have to make adjustments to the interior floor layout but that is something that their architect will deal with the Building Code. They are going to have to lower the water, the domestic water and the fire line service coming in from Church Street, those notes are on the plan to comply with MDC's requirements for coverage. In addition to the fence around these two utility areas, the site plan calls for landscaping, buffer landscaping. So that in a nutshell is pretty much the items that were on the list. I think one item that I didn't mention under architecture is the kitchen vent system which has, they have it in like a, it's boxed in except for the, I'll call it the mushroom on top, and they cannot enclose that. I don't know if it can be painted to blend, or left stainless steel, or whether they will build a kitchen or not, I don't know. But that still stands on the architecture. Everything else is as it was presented to the Commission at the original public hearing back on May 14th.

Commissioner Kornichuk: With these changes, the decibel levels are going to be all right now?

Ed Meehan: That is what they are telling us. The low grade, and by not having anything above grade that you could bounce off the walls, the decibel level is supposed to meet the standards. Now I've gotten that from the architect, I have not gotten that from the mechanical people, they call it the MEP, I don't know if that is the form they are using, or what it is, but I haven't gotten, other than the changes to the physical location, I haven't gotten any documentation on the decibel level comparing it to what we had before when it was above grade.

Commissioner Kornichuk: I think we should get something, I mean, rather than just heresay.

Ed Meehan: Oh yeah, I don't know if the architect is the person to get that from, I think it should be from a qualified mechanical company or a sound engineer.

Commissioner Kornichuk: Whatever it takes.

Commissioner Pane: Madam Chairman, I think that it's totally unfair for the residents that these modifications be made and changes to the architecture and some of these other changes be made after the closing of the public hearing. Now the public and the adjacent property owners have no way of making comments to this new information. I personally think that some of this stuff could be unsightly, I know that at the last public hearing the kitchen, the main problem for the kitchen was these residents didn't want to smell food right there, right by their house, that close. Just like the Krispy Kreme issue. So there are a lot of issues here that have been changed because the applicant didn't come in with everything at the right time, and didn't make changes early on in the process and the public hearing got closed. So because of that I think it is unfair to make these changes without public comment. Thank you.

Chairman Hall: Any other questions or concerns, comments?

Commissioner Ganley: When does the clock run out on this application?

Ed Meehan: You need to vote at your next meeting. The clock runs out I think it's August 2nd. The applicant can grant an extension of an additional sixty-five days, from August 2nd. That's in the statutes.

Commissioner Ganley: He could get one, is that what you are saying?

Ed Meehan: No, he grants it. The Commission does not grant it. The applicant can grant additional time to the Commission.

Commissioner Ganley: To resubmit, or to....

Ed Meehan: No. If you wanted more time to debate this, around this table and go through the information in the file, and you didn't think you were ready to vote on your July 23rd meeting, and if you wanted more time, there is time available under the statutes. The applicant has to grant it to the Commission, not the other way around.

Commissioner Ganley: What I'm just concerned with, okay, the clock is ticking, and you've raised some concerns, minor technical ones it appears, which we hope will be concluded to your satisfaction by the 23rd, so we can make a very informed vote, one way or the other on this issue, that's what I seem to be reading.

Ed Meehan: Well, I think that's what you want. I mean, you have asked the applicant at the public hearing on the 14th and the 28th of May to make changes. There were questions raised about the items that I went down, then they did make the changes and the questions that I raised, after consulting with the Building Department and looking at the documentation was, it showed that the town noise ordinance wasn't going to be complied with. You know, you can not approve something that doesn't meet one of your town ordinances. That got into this whole acoustical fence and the issues with the distance to the neighboring property and so forth. That was discussed at your last meeting, and as a result of that, that is why they are coming in with this alternate design of a split system which apparently they feel, I haven't seen the documentation in reference to what Peter said, that this will mitigate the noise to the level that will meet your noise ordinance.

Commissioner Ganley: If I could continue for just a second, and include Commissioner Fox. He and I both concur on this, we're concerned about the clock issue running out, and thus, initially we thought it might be in the best interests of the petitioner to withdraw and come back with everything but it seems as if he was able to catch up, for lack of a better term, he just caught up, and hopefully by July 23rd, you will have the information, the other information you wanted, and all the other issues cleared up. I just want to make, be comfortable that on the 23rd, we can say okay, the issues are in fact settled. I mean the church obviously can be a go, but there are all these little things that seem to be cropping up and once again, I hope that by the 23rd they will be resolved. Is there any doubt in your mind or do you just not know?

Ed Meehan: I'll go back to Miss Winters, who is the architect, who is providing us with the information and ask this question that was asked before about the decibel level with this new design. Again, the equipment as I understand it, and I'm not a mechanical guy, but talking to the Building Inspectors who are, this equipment, with being inside, that's the noisy part of the operation. It should be better. Now what I can ask of the applicant and Domenic is right, we can't reopen the public hearing because it was closed, unless you want to go back to square one but I can bring back these technical answers to you, get that information, hopefully get it in time to get it out with your next agenda packet so you have the benefit of that. That's a week and a half from now.

Commissioner Fox: So what you are saying is that by the 23rd we will have confirmed judgment as to the decibel levels that are emitted by the equipment in the new location.

Ed Meehan: Hopefully I will have to you an opinion of the professional who is representing the applicant. It won't be confirmed, in my opinion, until it is built and operating. You'll get probably a professional opinion, their best judgment on it, and I would always say you want to safe guard that and reserve something in a motion if you so see fit, that at the time these things are turned on, if it doesn't meet the noise ordinance, this then has to be adjustments to acoustical fencing or something else that can be done to make it meet the noise ordinance.

Commissioner Fox: And if we aren't satisfied by the 23rd? Is that too late to ask for an extension? How late can we ask for an extension? Right up to.....

Ed Meehan: You could ask for it at 7:00 the night of the 23rd. The information is not provided or I'll work with the Chairman. If it doesn't come in, they can grant the extension.

Commissioner Fox: That depends upon the presence of the applicant at that meeting.

Ed Meehan: Or through e-mail or a fax, or whatever.

Commissioner Fox: All right

Ed Meehan: This is not just like a single site plan where if you don't act it's automatically approved. That does not happen in this case. It doesn't happen in this case because the conditions which the Commission put on the original special exception approval specifically went to the concern about the architecture of the building. Any changes to the architecture of the building required resubmission to the Commission, and what got this back before the Commission was the substantive changes of putting in the mechanical systems outside on either corner of the building, which were never shown on the original site plan. That is why it is back before you.

Commissioner Fox: And while you were talking, I didn't go through the plans, I will take them home with me, the architectural changes and renderings of the new baffling and everything are (inaudible.)

Ed Meehan: No, all I have is these elevation cut-throughs.

Commissioner Fox: Well, that doesn't tell us much.

Ed Meehan: It tells you that it is going to be below grade and it's got a four foot fence, but that is pretty much what you saw in the prior elevations too, but the prior elevations had a six foot fence, and a unit that was fifty inches above grade.

Commissioner Fox: Okay, thank you.

Chairman Hall: Commissioner Pane, were your questions answered?

Commissioner Pane: Thank you Madam Chairman, yes I think so, an extension would not mean that the public would have a chance to speak on it again.

Ed Meehan: Doesn't open it up.

Commissioner Pane: The only way that the public would have a chance to speak on it again, is if it was denied without prejudice and then the applicant brought it back with these changes, so that

the public could comment. I just think it is totally unfair that some of these changes, I think maybe this Commission closed this public hearing too early. The public is here now, and they have been here every meeting, and these changes came in late and now they have not had a chance to comment on this to see if it is their satisfaction, and you've got to remember this is a special exception and it has to be perfect to be in harmony with the public, with the residents there because it is a special exception.

Chairman Hall: Any other questions, comments?

Commissioner Kornichuk: I'm going to bring up the same one again, you know, like Ed said, if this doesn't meet our standards, we still don't know what phase B is going to look like. I just have trouble with these units being outside where this fence and everything doesn't take care of the noise level, we don't know what the alternative is.

Ed Meehan: Well, if it doesn't take care of the noise level with this decorative vinyl fence, one of the options is to go back to that acoustical fence, that supposedly reduces noise.

Commissioner Kornichuk: But like you said, we're not going to know this until this thing is built.

Ed Meehan: We would have to get into professional judgment of the applicant's representative. It's not unusual that these things you know, happen like this, what I think is, and I'll repeat myself, is that you want to be protective of the neighbors and have that requirement. If this comes in and they say it's sixty decibels during the day, you know, that's pretty close, it's fifty-five in a residential zone if I remember and that's, and if they tell you that, I don't think you should act on this, unless they show you how they are going to mitigate it to less than fifty-five. That's what happened last time. It was fifty-five and they were up quite high, and then they had different methods to back it down which still wasn't backed down all the way, so when you go across the street and measure it on a neighbors property, it met the fifty-five standard.

Commissioner Ganley: Let's assume that they make a good faith effort based on an acoustical engineer's recommendation and they put this unit into place, and we then in fact say, okay, this project is a go, and we approve it. Is it possible that in the motion to approve as we enumerate the various conditions, one is that it's subject to a test at a point in time, or tests over a period of time to see if in fact it does comply. That we entitle ourselves to go out there, and then furthermore, if it doesn't comply with the test, the obligation is on the developer, the petitioner, the church folks to correct it within a specified amount of time once we determine on a certain date it doesn't comply. They have so many days to correct it. That might get us over this hump here, everybody renders perfectly honest and above board professional opinion which doesn't work out some times. I believe it was Ronald Reagan that said trust, but verify. I believe we are in the same position regarding this. It may get us by the issue of the sound and still protect the Town and still certainly protect the adjacent property owners.

Commissioner Pane: I'd just like to remind the Commissioners that if this one, this plan that they brought in, doesn't meet to everybody's satisfaction, if we deny this, there is already a plan that they have that's been approved, that has been okayed by the residents that they have permission to build, so if this one doesn't meet everything and it's not to the total satisfaction of the residents and everything, deny this, and then they can built the original one.

Commissioner Fox: I was just going to agree with Tom that very simply we make one of these restrictions that the mechanicals comply with the Town's sound ordinances, and if not, they have to be mitigated or remediated

Commissioner Ganley: You've got to be allowed to get in to test it. You've got to be allowed to go onto the property to test it. They have to grant us access onto that property.

Commissioner Fox: Actually they don't.

Commissioner Ganley: Well, I think it's one of the conditions that we measure distances.

Ed Meehan: You measure it from the property, the adjacent residential property.

Commissioner Ganley: Yeah, but you want to get in to see what it is that is generating the noise, that the plaque on there says this is such and such a unit. We've go to be able to get in and look at that unit.

Chairman Hall: Any other questions or comments? My only comment is that I'm assuming that they put the word rooftop A/C unit in here, I'm assuming that is something that they took off another.....

Ed Meehan: That is what they call these. These are normally the size of a unit that you put on a roof. These are big systems.

Chairman Hall: And that is compatible with something that would be set up this way?

Ed Meehan: Yeah, because of the size of the well they are putting them in. You know, I asked that same questions a while back, I said maybe this was mislabeled but I guess that is how they identify it in the trade.

Chairman Hall: As a roof top unit versus something else?

Ed Meehan: Yes.

Chairman Hall: Any other questions, comments.

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

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 Pane 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, proposed Site Plan Modifications be postponed to July 23, 2008.

The motion was seconded by Commissioner Fox.

Chairman Hall: Discussion? Ed, anything to add?

Ed Meehan: I don't have anything to add, thank you for asking.

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

Chairman Hall: We moved, we have to add, we have to move that we add Petition 33-08 to Old Business. We didn't put the Petition number, do we have to do that?

Ed Meehan: Yeah, by two thirds vote, you should add it to Old Business. I think it was a two thirds vote, but....

Chairman Hall: It was, but we didn't have the Petition number. This would be the draft motion for Petition 33-08 the Sphinx Temple.

Commissioner Fox moved to add Petition 33-08 to Old Business. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion with seven voting YES.

Petition 33-08
3066 Berlin Turnpike
Sphinx Temple Shriners
Special Exception Section 3.2.8 Special Event

Commissioner Fox moved that PETITION 33-08 3066 Berlin Turnpike, Sphinx Temple AA ONMS owners and applicant, represented by Mr. Sam Frink, request for Special Exception Section 3.2.8 Charitable Event Car Show, July 26, 2008 at former golf driving range on Deming Street, PD Zone District, be approved with the following conditions:

1. No vehicle access or existing onto Deming Street will be permitted except from the existing site driveway.
2. No on-street parking shall be permitted along either side of Deming Street.
3. If determined to be necessary by the Newington Police Department, the applicant shall secure a police officer for traffic control at the site driveway on Deming Street. The applicant is responsible to contact Newington Police to advise the Department of this event.

The motion was seconded by Commissioner Kornichuk.

Commissioner Ganley: On number three, the first sentence, just eliminate the first sentence and the applicant is responsible to contact the Newington Police Department to coordinate the traffic circulation around that event. Traffic control circulation around that event.

The motion was seconded by Commission Fox.

Commissioner Ganley: Could it be read?

Ed Meehan: Delete the first sentence and the new number three would read, the applicant is responsible to contact Newington Police Department to coordinate traffic control around that event.

Chairman Hall: Any other discussion.

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

Commissioner Fox moved to accept the motion as amended. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Hall: Okay, and I think Mr. Frink has left. Well, Ed we will have a follow-up on this too, it will be very interesting to see how this plays out, this is a little bit different than the one in the center of town, which was all on a flat concrete and bituminous surface. Seem to be a lot of car shows lately, it seems to be the thing to be doing this year.

VIII. PETITIONS FOR SCHEDULING (TPZ July 23, 2008 and August 13, 2008.)

Ed Meehan: The only thing you are going to carry forward is Three Angels Church, Petitions 25 and 26-08. Right now there is nothing in the queue line.

IX. PUBLIC PARTICIPATION
(For items not listed on agenda)

Frank Aieta, 595 Church Street: A general request for some information, what is the appeal process for a Zoning decision and what is the time period for a Zoning decision, if someone could explain that to me.

Chairman Hall: Ed, if you would.

Ed Meehan: The appeal for an aggrieved party is, you need to file with the court within fifteen days of the notice of decision, which we print in the New Britain Herald, fifteen days notice, you need to submit your complaint to New Britain Superior Court, showing that you are an aggrieved party, which could be an abutting property owner or anybody that feels any harm.

Frank Aieta: Fifteen days.

Ed Meehan: Right, and a lot of people forget this but there should also serve notice to the Town Clerk.

Chairman Hall: Any other public participation, Items not on the Agenda?

X. REMARKS BY COMMISSIONERS

A. Discussion of Accessory Apartment Draft Zoning Regulations.

Chairman Hall: We have a discussion of the Accessory Apartment Draft Zoning Regulations.

Ed Meehan: Well, I'm looking for more input. At the last meeting Commissioner Ganley had given us some suggestions as did Michelle, and the suggestions that I noted down was provide a statement of purpose; to address the concern of garages being converted to apartments; to require an affidavit from the applicant, as far as who is going to live in the unit; another suggestion was to have a range in size for the accessory between twenty-five and thirty percent; another comments was to, and this is in the area of architectural style, was to require a way of internal access between the principal and the accessory unit; suggestion to provide additional parking beyond just three spaces. The two other ones that I have is possible review by the Fire Marshal; and one that I added is that, I looked at some other towns, put a definition section, define what an accessory is in our regulations, it's not really defined right now.

Commissioner Pane: Madam Chairman, the accessory apartments was taken out some time ago by this Commission. There must be some minutes on that, the reasons that they took it out and their reasoning and their comments. I'd like to be brought up to speed on that. Do you think that we could have our Town Planner, you know, get us some minutes from when this was taken out so that we can see what some of the reasons were so we can make an informed decision on whether or not we really want this back in.

Chairman Hall: Now are you talking all the meetings that led up to this, or the final because they had a final vote on many changes, it wasn't just the accessory apartment that was eliminated. They had worked on this for several months. There were what, twenty-one changes, I believe? Quite a few.

Ed Meehan: You're correct. The Commission started this back in March and it wasn't voted until July. It went to public hearing and then there was a bundle of twenty, twenty-one changes, this was one of those. But certainly I can pick, I'll do my best to get what was more representative of this issue. A lot of discussion was on other parts, there was auto related uses, drive through restaurants were in there. I can also get the public hearing testimony that people submitted which is part of the record if you would like that.

Commissioner Pane: The Commission talked during the public hearing about each one of the issues I would imagine.

Chairman Hall: Not really.

Commissioner Pane: Well right after the public hearing was closed the Commission must have given some input on it, no?

Commissioner Kornichuk: No, they beat this for however many months and then the day of the vote they went and took each thing individually.

Chairman Hall: It was all out of the regulation, or remain in, they could not vote individually.

Ed Meehan: Each of the twenty-one changes were not voted individually.

Chairman Hall: It was all or nothing.

Commissioner Kornichuk: All I'm saying is that there were comments made throughout the whole two months.

Commissioner Pane: If it is possible to pick some of the comments that pertain to accessory apartments, if you don't get them all, it's okay, understandable but some of the major ones would be appreciated. Thank you.

Commissioner Fox: I don't know, maybe I remember it a little bit differently, but through this period between from say, March to July, we had spoken about it, at most if not all of the meetings, we were all asked if we had any comments or any complaints about taking one particular thing out, we were asked to go over the whole thing at home, and during the meetings, and yes, with the twenty-one or so different lines, so to speak, or different issues, we were asked to vote on it as a whole because, up to that time, there was no majority opinion that, or consensus that anyone of those should be removed from the list, so we did have a chance to go over all.

Commissioner Schatz: I think Peter said something about taking it out.

Chairman Hall: When he voted.

Commissioner Kornichuk: I asked and.....

Commissioner Schatz: I think the consensus was that there was nobody standing in line for this thing. I mean, we didn't have a lot of applicants, or even the rumor that anybody wanted to do it.

Commissioner Fox: And there were not too many, you can count on one hand the number of the public who spoke against it.

Commissioner Schatz: I personally think the hot button on the whole packet was the drive through.

Commissioner Ganley: Does anybody fully understand that we cannot bring back what we had? The issue of filing an affidavit to assume who lives there is of no value since anybody can live there. We cannot discriminate based on age, or blood relative, etc., so there is no need for an affidavit. You can rent it to anybody you want, so we are not bringing back an in-law apartment or an apartment for Grandma and Grandpa by some other clever name, we're reinstituting something that is entirely different. That's called an apartment, that's what we are bringing back, so if anybody is under the illusion that this is going to be limited to just the in-laws, is living under an illusion. It's not going to be just for in-laws, and once the in-laws are gone, the person who has the apartment can simply rent to anybody they want, and they don't need an affidavit, they don't need anything. It's an apartment and you've got to understand what it is we are bringing back. I think the public, should we decide to go to a public hearing, the public has to understand because I took the time to go to the legislative library and sit there for a while until I got tired of staring at the screen, that apartments, which is what we are bringing back have applicable rules. One, just one, since it is an apartment if someone with a Section Eight voucher comes to you and says, I want to rent your apartment they're in because it's an apartment. If someone comes, they talk about age discrimination, people are under the impression that age discrimination is just the top end, it's not, it's also the low end. If DCF wants to put in an emancipated child, and we've had two, when I was on the board we had two at the time, they can go to the apartment owner and say we want to put this emancipated child in there, the apartment's available, that child goes in. Furthermore, the apartment or tenants say to a single parent who has an infant, I want to rent your apartment, say well the infant is going to wake up at four o'clock in the morning, that answer is no, they have to rent to anybody who can come up with the dough. The public has to know that, they have to know what they are buying into. So if anybody is under the impression or the illusion that we are going to go back to what we had, just limit it to Mom and Pop, it simply isn't so, and by the way, I'll remind you guys once again, we have our own Town Attorney's letter which provides for us a clear prohibition against trying to put those kind of things into it, either by some clever language which probably wouldn't stand a real test by anybody, or simply forget about it and let's just forget about it. The problem is this, because of the opinion we got, there was some sympathy here, by the way, Pete, there was in fact some sympathy for bringing it back, there really was. We had some discussions as you know. This letter comes out, we get shot in the foot. We can't bring back what we had. If we could have, this issue would have been settled, probably three, four meetings later, we said, we're going to reconsider and we're going to bring back exactly what we had. Now guess what, we can't. That's what we are up against folks, and that is what we have to tell the public when they come for a hearing. That's all I have.

Chairman Hall: Other comments? My problem is that you seem to be focusing in on an apartment for profit. Why does this have to be an apartment that you are going to rent? This is what I don't understand. How we got from living quarters for a family member to an apartment that is rentable. Okay, basing it on the letter....

Commissioner Fox: But the point is, if you will pardon me, we didn't get there, Ben brought us there, number one and where does it say, it doesn't say that we cannot rent an apartment out. There's nothing that says in these, or anywhere else that tells somebody that they cannot, if they have an accessory apartment attached as part of their house, they cannot rent it to strangers, they can. And it is being done right now. We have at least a half a dozen or so homes that are split into two, not a duplex, but have a second kitchen, bedroom, sitting area, stuff, that are being rented out to other people, college students and the like. So how do you enforce that?

Commissioner Ganley: We received a notification, I thought this was a stunning notification by the way, we received a notification from the Capital Region Council of Governments that says when we did away with it originally we were taking off the table affordable housing. They actually said this, but there was no definition of what they meant, and I thought to myself, someone says, okay, you know, I guess they come in with a voucher and says, hey, you've got to rent this apartment because it is classified as affordable housing. That is what they said to us. I don't know where they came up with it, but that's another little thing that is going to be on the table. People wanting to just plain rent. Look, you've got a place, I want to rent it. That's what we are up against folks. If the Town Attorney said look, I'd researched this, I researched that regulation from the towns, and they seem to have it and you guys had it, and it wasn't any problem, why don't you just bring it back. It probably would have been unanimous. Now look what we are stuck with. No matter how clever we try to be, we can only (inaudible). That's what really bothers me.

Commissioner Schatz: But we are talking about one opinion.

Chairman Hall: Well, we're right back with the cat chasing his tail.

Commissioner Fox: No matter what, that is only one opinion, but it's the Town Attorney's opinion.

Commissioner Ganley: That's the difference.

Commissioner Fox: That is the one that they will refer to when somebody tries to keep them out of an accessory apartment.

Commissioner Ganley: Exactly right, that is the problem.

Commissioner Schatz: So if I wanted to put an apartment on my house, as long as the setbacks were all set, okay, I could do that.

Commissioner Ganley: And rent to anybody. And the problem is, the split levels are most susceptible. They're ideal. And then we can't say, character of the neighborhood, because this guy across the street got one, and then this guy says well, I'm going to put one in, the character issue is out the window. This guy got it, this guy could get it.

Commissioner Schatz: So as our Chairman says, we are chasing our tail. With what we have over there, you put it back on the agenda and you vote it up or down, done.

Chairman Hall: Or does this just open another Pandora's box at this point in time? If supposedly we have a definitive answer, well, you are saying we do, with the opinion.

Commissioner Ganley: That was what we can't do, but we don't have an answer as to what we can do, okay. It's just that you can't do these things, so that means that you can do just about everything else. I mean, I can't think of anything that you can't do with an apartment, right off

hand, unless somebody says you can't do A,B,C, but we already have the key components out of there, blood, relative and age.

Chairman Hall: Well, square footage, number of people per square foot, so on, but there are a million things that you could.....

Commissioner Pane: Well, I think we did our due diligence, we looked at it, we got the Town Attorney's opinion, it doesn't look promising, I mean, we did everything we could to look at this, and if the majority of the Commission feels that this isn't going to work, then it's done.

Chairman Hall: Other comments?

Commissioner Schatz: I'm not sure it wouldn't work. Who knows? I understand what they are saying, but I don't see a lot of people standing in line to put apartments on their houses.

Chairman Hall: Well, that would be for profit, and I think at this point people think that they can't do that, so if you start saying well, there's nothing to keep you from doing it, as I said, that opens Pandora's box.

Commissioner Pane: It still doesn't stop anybody from having their granddaughter, who needs help to come into their house and live with them, okay, they come and take care of their grandmother, their child who is handicapped could still come over, the cousins, whatever, they can still come over there and have this little area, they just can't have another kitchen. They come upstairs and they have a family dinner. Then go back down to their living area. I think it's just going to open up a big can of worms. I think we should let it rest.

Chairman Hall: I'm going to take a consensus vote tonight, not a binding vote, but a consensus vote. How many believe that we should bring this issue back in all its glory which means bringing it to Public Hearing, and reviewing and establishing a policy based on that, full blown. How many wish to do that.

Commissioner Schatz: Well, if that opinion is solid....

Chairman Hall: Well, put that aside. How many are willing to put the time and effort into this, with the information that you have so far, bringing it back, because it would be to public hearing, getting all the information. Do you want to do that, or, do you want to just say, listen, we have talked about this, for the past couple of months, doesn't look promising, I'm not willing to go out on a limb and bring this issue up again. Those are our choices. I don't think there is any middle ground, I don't think there is any, well, we'll talk about it but we won't bring it to public hearing. No, if we are going to pursue it, we need to bring it to public hearing to get the full picture.

Commissioner Schatz: Peter and I sat at a Council meeting, and we were the only ones that did show up that night.

Chairman Hall: Right, I remember that.

Commissioner Schatz: We had the Mayor, the ex-mayor, the mayor to be, another mayor to be, all said to us, bring it back, and I said to them, in good faith, I would. That's where I'm coming from.

Commissioner Ganley: But you can't bring that back.

Commissioner Schatz: I'm not arguing that point. I understand but I gave my word.

Commissioner Fox: And you did it, you brought it up and we discussed it and you say, this attorney's letter notwithstanding, the attorney's letter has a lot to do with it.

Chairman Hall: And if that is how you are basing your opinion, that's fine, I'm just saying, these are your choices, bring it back, in it's full glory, or say, I don't know, from what we have discussed around the table, the information that we have gotten, I don't feel comfortable doing that. That is the decision that we need to make because honestly, this has gone on for a couple of months. It has gone on in the background, it's gone on in the foreground, we need to do something. Fish or cut bait at this point.

Commissioner Fox: I say, leave it alone.

Chairman Hall: How many want to bring it back to public hearing, full glory.

Commissioner Kornichuk: Well, I do. I don't think it should ever have been taken out in the first place and we wouldn't have this problem.

Commissioner Fox: Oh yes we would.

Chairman Hall: But we can't go back.....

Commissioner Fox: Somebody would be caught renting and they would be suing somebody, Ben would have given the same opinion, and then we would really be in hot water. Yes we would be, Pete.

Commissioner Kornichuk: It was on the books for how long, Mike?

Commissioner Fox: I don't care if it was on the books for ten centuries, all it takes is one.

Commissioner Kornichuk: But he wouldn't have given us an opinion if wasn't off the record, we wouldn't have had to have an opinion from him.

Commissioner Fox: If somebody had been caught renting an apartment, the elderly died, the in-laws left and somebody had to come in from the town, from staff, and they saw, well, this is a violation, it would come out, and we would have had to ask for attorney's opinion and it would have come out the same way, number one. Number two, it's done, we took it out, and that's it.

Commissioner Kornichuk: Well, you're entitled to your opinion Mike, and I'm entitled to mine, it should never have been taken out.

Commissioner Fox: All right, fine, that's your opinion, but it was, the majority here decided to take it out and that was it.

Chairman Hall: And now a majority is going to decide whether we are going to put it back in or not. Everyone is seated this evening, so we can get a pretty good idea. It won't be just five people deciding, all seven of us. I'm not getting the feel that we want to bring it back.
Commissioner Pane?

Commissioner Pane: It's unfortunate that it was taken out, it wasn't too bad, but it was done, it was taken out now we've look at it now for some time, we cannot ignore the Town Attorney's letter to us stating how this is going to be, okay, so taking that into account, we just can't ignore it, we can't set it aside and not know that it is there, if we go to public hearing you have to know that it's there.

Chairman Hall: Oh absolutely, in public hearing that would be part of the record.

Commissioner Pane: So taking that into account and the problems that it is going to lead to, I would just say, look, we've looked at this, but because of the circumstances I think that it is best to let this rest.

Commissioner Ganley: I have to concur. There again, I think there was a time not to shortly after we had done away with it, that well maybe, probably and I was just a bit distressed at the meeting that we were not allowed to speak to the issues, but that is for another day. I thought well, we have discussed this, maybe we can bring it back and then this bombshell hit, and it became apparent that we cannot bring back what we had. That is the sole issue before us. We can regret it, but we can't bring back what we had and that's the unfortunate consequence of this particular letter and opinion, you'd get killed on it, and I don't want to get killed any more.

Commissioner Camerota: I think the problem is as Tom as said, we can't bring what we had back and what our original purpose was, the concern about having your in-laws or a disabled child live with you. This, how we would have to bring it back seems to open up a much bigger problem. I don't know if people renting these apartments was a problem before, and if that was the reason that it was taken out, I remember hearing little bits and pieces. I'm surprised that we haven't had while the Commission was seated, people walking in here demanding we put it back, if people are so outraged that it wasn't, it's no longer in there. I think we are going to create more problems by having a public hearing on the proposed change that we would have to put on the table because of the opinion that we had. We really are prohibited from having restrictions on age and blood relationship.

Chairman Hall: Anyone else wishing to speak? It's pretty much a three to four, but the four is the majority so therefore, and again, when you look at the other towns they are able to do a certain amount which our Town Attorney doesn't agree with. So, that's where we are, that's why I say we are a cat chasing it's tail because depending on the opinion you get you have the result of the opinion and if this table feels that the opinion is going to override and the opinion leads to housing that we are not going to be in favor of, then the logical conclusion is, if we don't want to get to the end spot, we don't begin. There is another opinion, and that is that the first opinion was incorrect. That again is an opinion, but honestly there is not a heck of a lot we can do about that at this point. It is what it is, so that we have had that opinion that stopped the accessory apartment. We now have an opinion that says if we go back we may end up with a product that I don't think anybody around the table really wants, because I don't think the intention of those of us who are in favor of accessory apartments is to the letter of the law that we have from our opinion granted from the Attorney. We are caught between a rock and a hard place at the moment. The consensus seems to be four saying, don't go near it, three willing to take the chance, and four overrides three.

Ed, after all your hard work. Whatever Domenic asked you, can we agree with that, that at this point Ed can stop pursuing the answers to the questions that have been raised?

Ed Meehan: We'll put it in an X file for you someday.

Chairman Hall: It may come back, because again, if this is based on opinion and opinion changes, policy therefore may follow.

XI. STAFF REPORT**A. Bond Release Request – Stew Leonards**

Ed Meehan: I'll be brief. The reason that Stew Leonards is on here is because the Commission directed me to get them to cut the weeds that are growing quite high up at the corner of the site. I did contact them, both by phone and e-mail and got no response back, and so we'll just keep it here until they cut the grass, and they get their \$30,000.00 back. A lot of money to hold for grass. Last night the Town Council authorized the Town Manager to sign a grant award with OPM to get us going full tilt on our Plan of Conservation and Development, we got a \$20,000.00 grant. There is some paper work to take a little while to get into place, and then when that is ready we can start talking about getting help to do that. We would be going RFP or RFQ for consultant services I would think.

I mentioned earlier the downtown revitalization committee, the work they are doing on the municipal parking lot. I want to keep you in the loop on that and remind you of the meeting next week. If they do make some of the changes that they are talking about, one of the concepts is a space in the middle to sell or lease to private sector for some sort of a development or, if that doesn't work reserve it for a public space. It's going to probably change the layout, the circulation, it could affect the parking, and we are looking for legal guidance. Can you see this land if it was given to the Town for municipal parking purposes? Some of the deeds, the more modern deeds I call them, in the last twenty-five years, have deed restrictions in there. For instance the Eddy deed, Gauteri, Patz, basically the western end of the parking lot, the deed says all given for public parking purposes only, so if part of that property was to go back and be offered as a pad site or something, there is a legal issue there and the Town Attorney is looking into that. Can that be reverted back is the question.

The big thing, we had a walk around over there, the big thing over in that parking lot is what goes on underground. The drainage is not sufficient, maybe half of the parking lot has underground utility services for electrical. Parts of it are overhead, and then there is always this issue with Mr. Bonelli and trying to acquire his piece, about 22,000 square feet. So that is where that project is. (tape delay).....creating development because they are very favorable with the parking ratio. What that does for a developer is as you know allows him to put more square footage on a piece of property which turns into a better lease return. So, it's not just going in and making it pretty, it's going in and making it functional, but I think also functional to the point where there is still that carrot out there for people who want to develop in the town center. That is what they are trying to achieve.

The last thing that I want to mention to you is that I got a request a couple of weeks ago from an organization that is associated with the Shriners. They want to run a haunted house in October for a whole month down at the, basically the parking lot, up on the hill behind the driving range and they want to do this as a special event. Our special events in the Zoning Regulations for charitable purposes are limited to ten days, and this would be for a whole month. So, this needs your guidance. I told the person who put this together for me they would have to come in as a Special Exception because it is a place of public assembly and recreation. I've also referred this to the Fire Marshal and to Pete Hobbs because this is an inflatable building. It's a cold air, inflatable building and they do props inside and you know, so I've got Chris Schroeder looking into it as far as fire certification and exiting which he will let me know about. He was supposed to let me know before tonight, and I haven't heard back from him, but in any case, from a land use point of view, this is more than just a three day or four day event, they would like to run it every day for thirty days so I'm just looking for guidance.

Commissioner Ganley: Is this to raise money?

Ed Meehan: It's to raise money. It's for the Shriners Hospital, the burn units. They would verify that for us, and this is one guy who is a Shriner and he is going to invest, he says up to \$15,000

of his money into this. Apparently he tried to do something like this down in Meriden over the last couple of years, didn't have a good turnout and he's associated with the Shrine up here now and so they are trying to raise money, you see from the car show, and this event, for what they are doing.

Commissioner Camerota: I think I would want to know exactly how many parking spaces they have because those events tend to be, and I've had a couple cases like that, where people are walking on the side of the road and get hit by cars because it is dark, and they tend to go until 11:00 o'clock at night, and.....

Ed Meehan: Yeah, this goes late, it goes until 10:00 p.m. and then later on weekends. I can make copies of this for everybody. There is admission, ten dollars for adults, five dollars for kids six to twelve, under six are free.

Chairman Hall: Are they just putting up a trial balloon to see if we would consider it? Then put in the special exception request?

Ed Meehan: Yeah, first he thought he could do it as a special event, charitable event, but I said, that's only ten days, so they said, what if I apply for a special exception like you would for any place of recreation and assembly, I'll do it for a month and then will close. I said, well that is a possibility but I said, the same as Michelle said, we need a site plan, we need to know where the parking is going to go, how you are going to control people going in and out, and then when he gave me, this is a copy, but he had colored pictures of this building, I said, look, I want the Fire Marshal to look at this, so that is where it is right now. I'll let the Chairman know what we find out.

Chairman Hall: Does anyone have anything else?

Commissioner Schatz: One question. Over on Cedar Street where they took the wall down, where they are expanding, apparently the house up there has a septic tank? They put a septic tank almost up against that wall.

Chairman Hall: The green house? A septic tank?

Commissioner Schatz: Yes, there's a septic tank sitting there. Brand new.

Ed Meehan: I don't know.

Commissioner Schatz: The only question that I had is, driving by, it's probably four to five feet off the wall, the new wall, and it faces, it comes on an angle.

Ed Meehan: It wasn't a dry well, was it a bee hived shape or

Commissioner Schatz; No, it's the kind that I put in up at the Cape. Looks like maybe a thousand, two thousand gallon.

Ed Meehan: I don't know but there are a lot of places still in town that are on septic systems.

Commissioner Schatz: And the question that I had is, where is the leeching field?

Chairman Hall: That was my question, because if the thing that I saw was a pipe, but I thought that was a drainage pipe, I didn't think that was a septic system.

Commissioner Schatz: Well, there's a big tank, like I dropped in at the Cape. Same thing.

Ed Meehan: We have the project plans in the Engineer's office, I'll take a look at them. There is a rear lot, there is a rear lot back in there, that's not the rear lot, because there is a rear lot on the septic system.

Commissioner Schatz: No, that's the house that sits behind the....

Chairman Hall: It's right next to the town garage, parks....

Commissioner Schatz: The town garage.....

Ed Meehan: It's on the driveway.

Commissioner Schatz: Yes, and then you have the other driveway here and it sits right up in here. They took that wall down and crushed it and.....

Chairman Hall: They have to use the town access right now to get into their house because they have to go down there and across. That's the only way that they can get into their driveway.

Ed Meehan: I'll find the answer.

Commissioner Schatz; I'm just curious.

Ed Meehan: That project is actually on schedule, as is the Garfield Street project, both going well.

Chairman Hall: Any other comments, questions? Ed, do you have anything else?

Ed Meehan: Nope.

Take these plans with you, I'll make up four sets and I'll get those packets to you for 57 Church Street.

XII. ADJOURNMENT

Commissioner Fox moved to adjourned the meeting. The motion was seconded by Commissioner Kornichuk, and the meeting was adjourned.

Respectfully submitted,

Norine Addis,
Recording Secretary