

NEWINGTON TOWN PLAN & ZONING COMMISSION

January 10, 2007

Regular Meeting

I. ROLL CALL

Commissioners Present

Chairman Camilli
Commissioner Cariseo
Commissioner Fox
Commissioner Ganley
Commissioner Schatz

Commissioners Absent

Commissioner Kornichuk
Commissioner Pruett
Commissioner Andersen
Commissioner Prestage

Staff Present

Ed Meehan, Town Planner

II. PUBLIC HEARINGS

A. **PETITION 69-06 68 Maple Hill Avenue and 80 Maple Hill Avenue, Greene Associates, LLC, c/o Vincent F. Sabatini, One Market Square, Newington, CT 06111 Donna DiMauro and Hollis Kobayashi owners, request for 10 lot subdivision, R-12 District. Continued from December 20, 2006.**

Attorney Sabatini: Good evening Mr. Chairman, Members of the Commission, Vincent Sabatini, Attorney, One Market Square Newington and with me tonight is Alan Nafis from A-N Engineering. Last time, we indicated that we didn't have the final revisions from the surveyor. We have since received them, and on January 2nd, we did final revised plans, you should have those. We also filed a sight line investigation, also Mr. Nafis responded in writing to the comments of the staff, both from the engineering department and the town planner and I also submitted a report from the soil scientist, Jackson Engineering, LLC, dated January 2, 2007, and I believe that this answers all of the questions that the staff had. I understand that the engineering department has not had an opportunity to review the revisions, so we probably can't close the public hearing tonight on that regard, but I think all of the information that we provided resolves all of the issues that were outstanding. The soil scientist indicates that the soils are well drained, moderately well drained and there are no wetlands on the site. He performed borings where it the borings needed to be taken. We now have the record subdivision plan, utilities, improvement plan, drainage plan, we show two trees per lot, we show where the fire hydrants are going to go, we show traffic control signs, we show underground utilities on the plan. With regard to the street lights, we don't have a prototype, I could get one from CL&P, but the lights are going to be like the lights at Strawberry Lane, recent subdivision at Willard Avenue and New Britain Avenue. We clarified the deed descriptions on the survey, Mr. Nafis' firm got the drainage report, and if you have any questions about anything we can answer them now. Commissioner Ganley had a question about explaining the difference between wetland soils and surface water, we can call upon Mr. Nafis to do that.

Alan Nafis: Tom, I didn't get the exact question. The State of Connecticut, as you probably know, wetlands are delineated by a soil type and basically it's a saturated soil that shows a certain amount of what they call mottling of twelve inches of the surface. I'm not a soil scientist, I'm not an expert in that, but that is why they had the soil scientist go out and take a look at that area. Surface water is just, in general I think what happens out there is, it's not, there is sheet flow going across, it's generally positive flow that goes right across that site, so you have the surface water before it sinks into the ground going across the site. That is the difference and apparently, a lot of times, if there is a depression or something, and the water is allowed to sit there, then you will see the characteristics of the wetland soil but in this case, that is not what happened, at least on this property that is not what happened. Does that answer your question?

Commissioner Ganley: The question was posed because simply that there is a science to determine what is a wetland and soil composition. What I was merely asking for was for the benefit of the people in the audience who may not be familiar with the science of it, a layman's explanation of what constitutes wetlands versus runoff from surface water, just to make it easier to understand what we were all talking about. So if they are satisfied.....

Attorney Sabatini: Just wanted to also, generally there was a question from one of the audience members about what the houses might look like, and I have just two or three difference schematics. The houses basically are going to look like the houses that were put up almost directly across the street on Maple Hill Avenue recently. Just some typical types of designs that would be in the area, and there is going to be one developer for the whole site. Want me to address some of the comments that some of the members of the public made last time? I think Mr. Patel talked about drainage, and I think that the drainage report is going to show that we are going to have a zero effect on this site with regard to drainage. Other people had issues about, Ms Birdsall I think talked about storm drainage, and again, I believe that this project is not going to effect any of the abutting properties in the area. Any storm drainage is going to be handled within the site according to the design that Mr. Nafis put together. Mr. Marsden talked about the number of houses, there is going to be eight new ones and two existing and the existing driveways are going to have one road, it's going to be called, I believe Greene Way. Somebody talked about the soil scientist report which we have on file, and I believe that those were the comments. Again, I think that we meet all of the subdivision regulations, and it's a good design for the area.

Commissioner Cariseo: Some of the neighbors were concerned, that live on the back side of this, about a line a trees that are in there. I guess through here, are they going to be staying, or be cut down?

Alan Nafis: I'm not exactly sure which side of the, there really isn't anything on that side of the property. We are planning to create a swale to bring the water through this area, behind the houses, so there will be some clearing back there. I'm not exactly sure where the trees are, which property they are on, we'll be coming, probably within a few feet of the property line with our grading. It's not heavy grading, it's not a lot of fill, or a lot of cut, so some of the trees may be able to be preserved, but we really haven't looked at, because we don't even really know how the houses are going to fit in. When the plot plan comes in, that will be a better chance to look at that. But the basic grading is because we do want to create that swale, you also know that back here, there is a bit of a berm through this area here, and that kind of showed up more when we got the one foot contours, and I believe that was to direct the flow down here, so we are doing our best to keep it going in the same direction. I'm sure they would like to preserve as many trees, they don't want to cut them down if they don't have to.

Chairman Camilli: What is the frontage on these lots again?

Alan Nafis: The new lots on the straight away, just over a hundred feet, a hundred and four feet, and a little bit more as you go around the curve.

Chairman Camilli: And that is going to be the square footage of the houses?

Alan Nafis: Roughly in that area.

Attorney Sabatini: Approximately in that area.

Ed Meehan: A couple of questions. To follow up on Commissioner Cariseo's observation on the back of this property, the plot plans that you submitted, you have chosen to establish a ten foot side yard along the back of that property, as it abuts the back yards of Vincent Drive which, if you are going to swale the property in there, and clear it, it's going to put those houses right up into the backyards of Vincent Drive. My question is, on a cul de sac, you could have chosen the north or south side as the side yard, and left thirty feet on the east side. Why did you choose that design there...your plan has two different dimensions on it too, I don't know if that was a choice based on the housing type, or why you did it?

Alan Nafis: No, well, I mean, we just kept the rear yard going along both sides, behind the houses. I don't think it makes a whole lot of difference to us, one way or the other. I did, while we do have the ten foot side yard here, I did show these at twenty feet off, because again, we want to get the swale behind there. I don't think we can go any closer than that, but I mean, if there is a preference that we made the ten foot side yard on this side, I don't think that is a problem with us, or with the builder, at this point. I don't know if there is any direction in the regulations that....

Ed Meehan: There isn't, and I just raised it because of the proximity to the houses on Vincent Drive.

Alan Nafis: Well, we also have the possibility of you know, at some point, the rest of these, maybe not, I don't know but, at some point there is going to be a side yard at one place and a rear yard at the other. At this point in time, I have no problem with changing that and moving these houses around to here. That would help out with the existing homes on Vincent Drive.

Ed Meehan: The other question I have, with two lots just before you go into the cul-de-sac, because of the shape of the lots, the house is only twenty-five feet, twenty-six feet wide. See how long and narrow they are, I don't know how you are going to get that size house, if that is your prototypical house, on those two lots.

Alan Nafis: I would have to bring the builder up here to explain that, I don't, I mean, there are other ways to configure it through here. I was under the impression that this particular plan was more to show you how the grading of the area was going to go, and how we were going to handle the drainage through here.

Ed Meehan: Well, it does, but the footprint of the house is going to affect the grading also, not just a box, it could be like an L-shape....

Alan Nafis: Exactly, but the important part of this plan, to my mind, is that the grading is shown that we have the soil going down the lot line.

Ed Meehan: Between the lot lines?

Alan Nafis: Between the lot lines, so, and between each lot line, so it's not like everything is coming in this direction, so what we are showing here, and it still has pretty much that whole building area that he can work within, and not affect the way the drainage is coming through there.

Attorney Sabatini: I don't think it was the intent of this map to show the location of the houses necessarily.

Ed Meehan: I understand that, but because of the configuration of a parcel at the end of a cul-de-sac, not so much the far easterly ones, but the ones sort of, that we are talking about right now, it doesn't give you a large building envelope, because of the radius of the road and the setback requirements, the thirty-five feet, and the thirty feet, and that is why I called your attention, those are restrictive lots.

Alan Nafis: They are to a certain degree, and I think the builder may have to be a little creative, but maybe build more over here, or like you said, a L-shape or something on those lines. He has the building lines to work within, and again, my intent with this was to show that we are getting the drainage through the lot lines and it won't be affected really by how he places the house.

Ed Meehan: A couple of things, as Attorney Sabatini pointed out, the engineering staff hasn't got into some of the revised grading plans, and the road profile yet, and they will have that for you at the next meeting. On the revised plans, if I'm reading them right, the existing house on the north side of the proposed road is over the setback line. I don't know if you realize that.

Alan Nafis: Which set back line?

Ed Meehan: The thirty-five foot front yard setback line.

Alan Nafis: It looks like it is going right through here. Oh, that corner.

Ed Meehan: Yeah. That could be a problem.

Alan Nafis: I'll check on that.

Ed Meehan: And, will the utilities be put underground for those houses.

Alan Nafis: Yes, we have an easement all the way around, a fifteen foot easement all the way around the cul-de-sac.

Ed Meehan: So the existing overhead service will be put underground.

Alan Nafis: I'm sorry, wait a minute, maybe I misunderstood you.

Ed Meehan: One of the staff questions.....

Alan Nafis: At this point here?

Ed Meehan: Yes.

Alan Nafis: I can't say that that is going to be put underground. I thought you were talking about the whole development.

Ed Meehan: No. The staff report goes back to, the 13th of December, asks about tying those two existing houses into the underground system. They come off the street now. The overheads come off of the east side of Maple Hill.

Alan Nafis: I don't think the intention was to redo the power going into those two houses.

Ed Meehan: That is a requirement of a subdivision.

Alan Nafis: The existing houses?

Ed Meehan: No, the whole, now everybody is in the same subdivision together. I just wanted to call that to the Commission's attention.

Why did you ask for a waiver of the sidewalk? Is there some reason the sidewalk is not needed here?

Alan Nafis: Well, I think the length of the cul-de-sac and the number of houses in there, I don't think that is an unusual request for this size of a development. I mean, at the same time, I don't know if we are opposed to it, doing it on one side.

Ed Meehan: It would usually be on one side, you mentioned you are going to do the colonial lighting, and I think that is pretty much the comments that I had from a planning point of view and I'll sit down with the town engineer and get his input.

Chairman Camilli: One of the things that I think the attorney alluded to, I think he used the plural for the borings were done, as far as I know, there was one test pit done in the middle of the site.

Alan Nafis: No, he's talking about the soil scientist.

Attorney Sabatini: The soil scientist said, on page 2, that he walked the parcel and performed hand auger borings within topographical low areas, where the land exhibited ground water conditions.

Alan Nafis: Those are not deep borings. He is only going down a foot or two, at most.

Ed Meehan: There was one test pit done, but it said, as shown on the marked up plans. I couldn't find, where was it?

Alan Nafis: It was marked up on the set that we gave back to the engineer.

Ed Meehan: Oh, okay. Why only one?

Alan Nafis: That's what we asked for, I don't know what we would find if we did more than one, at this point.

Ed Meehan: Well, we have heard a lot of comments from the neighbors about drainage and water problems, and I guess just one test pit, you hit (inaudible) about four feet, and that must have been causing a perched water table.

Alan Nafis: Yeah, we didn't see any water at all, we went down about eight and a half feet. I mean, we can go out and do more and if we have to bring the engineer out with me if we wants to look at it.

Chairman Camilli: Well, I think, as far as I'm concerned, just so that we can protect the neighborhood, I think we should be sure about the drainage there, whatever that takes. More borings, or whatever, and it has to be acceptable to the Town Engineer. I know that he hasn't reviewed the plans, and I'm concerned about that because of all of the comments that we had, from when the town had to do work in the past in that area. With this development, we really don't know what that run off is going to be, and we have to make sure that we get it right if this moves forward.

I have one more question, on subdivision, isn't there something in the regulations about open space?

Ed Meehan: There is a provision in the regulations that the Commission can seek to get open space. It can't exceed fifteen percent, and it's normally tied to wetlands, steep slope, flood plain area or open space that is identified in your Plan of Development as implementing the open space plan, adjacent to school yards and existing parks and it's intended to continue the open space pattern in the town. That has been done in quite a few subdivisions where an area of open space is picked up and then dedicated to create open space system, don't know if you want to consider it here, but Alan alluded to the possibility of adjacent land being subdivided someday. We know the character of this section of Maple Hill Avenue, there's a lot of long, deep lots. I don't know if, it's not an area where I would recommend any active park lands or anything, but open space in that particular neighborhood, as buffer between this and Vincent Drive back there might be appropriate. As you go north on this section of this neighborhood, the lots have the same depth all the way up to the corner, I believe, as well as south for, almost down to Spruce. As we are seeing on this, and we are going to see this more in Newington, people are putting together these back pieces as these two neighbors have done, and come to the Commission to try to get subdivided lots out, and whether you want open space or not, that's up to the Commission, but if it was, I would think it would affect the lot yield. The question, how is it going to be distributed in that subdivision, along the backyards, the north side, south side?

Chairman Camilli: I just brought the question up, I don't know how the Commissioners feel about that, but it would be something that certainly, if this is the way this particular area is going, it seems to me that all this creative zoning techniques that are going on right now, you know, the character of the neighborhood is certainly going to change, just so you know, I talked to Ed about this, what kind of controls do we put on. Maybe we want to see it, maybe we don't. At this point it seems like there could be more coming in as both people alluded to, so I would like to stay ahead of the curve, I don't really know how, at this point. But as far as open space goes, this would definitely perhaps lessen the yield. If that is something that the Commissioners want to consider, then I think we will have to consider it. I don't know if anyone wants to comment on that, but...

Commissioner Schatz: I just don't want to pass surface water on to my, our neighbors.

Chairman Camilli: I totally agree with that.

Commissioner Schatz: You know, I always thought that filling a lot is nothing, it doesn't make any difference, well, my neighbors did it, on Maple Hill Avenue and payback time for them was when their cellar filled up with water, okay, and they are in Florida. So I am concerned with the wetlands, if you are building these houses and there are going to be wet cellars in them, people aren't going to like that very much. I mean the purchasers, so I think to have a water done right is a big point, and I don't think the neighbors should have water on their property if they don't have to.

Chairman Camilli: Well, as I said, the best we, I certainly don't have that expertise, it would be the engineers, the town engineers and so forth to make sure that we do enough borings to make sure that this is surface runoff or if it is coming from underneath someplace, or however that

water appears, it's been a problem in the past, it's been taken care of, and I think disturbing it may cause more problems. I agree with you, we'll have to wait until we get the reports back.

Commissioner Ganley: As relates to the open space issue, there are very few houses on that particular parcel, I don't know how one could get some open space out of there without probably eliminating a house, or shrinking them considerably in size, but to your remarks Ed, about the continuation of the development of those deeper lots, probably northerly and possibly southerly on Maple Hill, it might make better sense if a developer were to buy up four or five, so there is a very large parcel, and then can probably afford the luxury of giving to the town some open space, but quite frankly, if the person is going to go six lots, eight lots all the way up the street, and it just about consumes the lot, I have no idea of what the proper ratio is supposed to be.....

Chairman Camilli: Fifteen percent.

Commissioner Ganley: No, I mean the, we are only talking about seven, eight, ten houses tops going up the street, they have either got to shrink the size of the house, the footprint, or eliminate houses on the lots.

Chairman Camilli: I think that reduces the density.

Commissioner Ganley: We could be wrestling with this thing all the way up the street.

Chairman Camilli: That's the thrust of it, it is to reduce density.

Commissioner Ganley: Yeah, but you might not be able to get reduced density out of a fairly constricted, or small lot, but if you were to double up or triple up some of the lots going up the street, so potentially you could put in twenty plus houses, to fit, you might be able to carve out a piece of open space. We're going to have to wait and see.

Ed Meehan: Well, we don't really know what could happen north or south of this area, because you don't know if people are going to go in with other property owners to aggregate property and make it possibly sub-dividable, but you know, one of the purposes of the subdivision is to create a road network, a utility network, it's also possible to begin to start to create your open space network too, so you start here, and maybe other lots come down, five, ten years from now, you could begin to put the open space pieces together. So you have that open space area between neighborhoods. It's a planning exercise, it will affect the number of lots that could occur here and may affect the number of lots on neighboring parcels in the future.

Commissioner Fox: I agree with everybody here, the one comment that the Town Planner made was, this seems to be, shall I say, a prototype, and if this is going to be the trend, in the Maple Hill district, right here we would be replacing two driveway cuts with an actual street. Now as we go up and down, just saying, I took a ride over there today, as you say, a lot of very deep lots. Are we going to see new streets, the distance between Spruce and Hemlock and then something else in between, or side streets off of what I call the tree streets, this is going to change the character of the whole neighborhood. We are going to lose a lot of open space, a lot of wooded areas in the back there, along Vincent Drive, by the golf course, and everything, and I think we should be very careful.

Attorney Sabatini: Just a couple of comments. There hasn't been any recent development of residential property on this street, except for directly across the street, and now this one, but if you get the maps, and look at Maple Hill Avenue, I mean, up and down, and especially south of where we are, there are a number of subdivisions that were created in the '70's and I think, the '80's, utilizing the deep aspect of the lots. So this is nothing really new here in the area.

The other thing is, the 3.9 open space regulation states that the Commission may require that land be preserved for parks and recreation or conservation purposes, examples are a situation where open space reservation may be appropriate to protect mapped wetlands, which we don't have here, flood hazard areas, which we don't have, steep terrain, which we don't have, and when new open space would be contiguous to existing protected open space or future open space of the town, so I'm not sure that this is the appropriate area for an open space concept. That's my opinion. I'm not sure, the other subdivision that I was involved in recently, was at Willard Avenue and New Britain Avenue, and I'm not sure if there was, there was an area that was undevelopable there, was that designated, I don't think that was designated open space, was it, Mr. Meehan?

Ed Meehan: It was, no it wasn't public open space, but there was a fairly large area set aside for drainage with a detention basin at the end of the cul-de-sac.

Attorney Sabatini: Right, but it wasn't designated open space. It was the property owner's would be involved in maintaining it.

Ed Meehan: The basin is actually on private property.

Attorney Sabatini: And as far as the drainage is concerned, the drainage report is on file, and it meets the standards of sound engineering principles and again, the town engineer will look at it, and he is invited to go with our engineer on the site, if he requires more information, we will certainly give it to him. We don't want to create a situation where any neighboring property is going to be affected by any more water than they have right now, we certainly don't want to have a subdivision where the home owners are going to be faced with a water problem. That's the goal, and we are going to make sure that we do everything we can so that doesn't happen.

Chairman Camilli: That's our goal too.

Attorney Sabatini: I mean, that's what we are going to do.

Chairman Camilli: Any other questions from the Commissioners? Ed?

Ed Meehan: No, I'm set. I would recommend that you keep it open.

Chairman Camilli: Okay, are we going to need....

Ed Meehan: No, you are okay with time.

Chairman Camilli: Okay. We are going to hear from the public. Anyone from the public wishing to speak in favor of this application? Against?

Richard Lemire, 59 Vincent Drive: I'm concerned about the property here on Vincent. This slopes down so much, there is a lot of water that comes down here, and I know, up in here, I don't care what they say, I've seen, I've only been there three years, and I've seen water puddle in here, all winter long. It doesn't drain, it just stays there, all winter long. Thank God it's a low spot, I suppose, but a lot of people have complained about it, and I've heard it here. Coming down through here, with all this slope, I'm very concerned about all that water, especially when they remove all of the trees that are back there. This, whatever you are going to put in here, berm, swale, whatever, what's that? My land goes down a good, six, seven feet, is that gully going to be down that low? That is my main concern, about the water that would be coming down, since the section is higher than my land, and the rest of Vincent, really.

Chairman Camilli: And I think sir, that is what we are going to try to ascertain and what they propose, you know, according to them, is supposed to meet the standards and do what it is supposed to do, but we are also going to have our town engineers look at it, so it may stay the same, but, who knows.

Richard Lemire: Looking at the size of these houses, I find it difficult to believe they are going to put those in that property. Thank you.

Chairman Camilli: Anyone else wishing to speak against?

Christine Tofeldt, 107 Vincent Drive: I spoke last meeting. I raised the question about wetlands just because the statement was made that there no wetlands. I'm not an environmentalist, I'm not here about the animals and all that, I'm here about my own concern about my own property, so I will leave the wetlands question to the town to make sure that are happy with what ever answer has been given, because I am no expert.

I'm here tonight just because of the enormous amount of water that is on all of these, coming from this property and running onto all the properties downstream, which would be south of here. My property I believe, somewhere in here there must be a yard line that goes to the dead end down on Vincent Drive. This is Vincent Drive, and then it kind of jogs in, and it comes out, and I'm down in the dead end down there. Now I'm getting a little nervous after what was presented tonight, they mentioned a swale on the east side there, for Vincent Drive, and they said, oh, we're going to swale it and it will come this way. Well, I'm downstream from that, and I'm still on Vincent, however, I'm down south of here, so I'm looking more at that line, the south line of the property. From here comes all our water down to our property, and there are plenty of issues there already, that have been somewhat handled. At times we have a system that will fail, if conditions are right.

The gentleman that spoke before me stated something about the trees are going to be all gone, and when you are going to have a lot of runoff problem. That was something that I was going to talk about too, is that those trees, that are all sitting in there, very densely wooded, are soaking up a lot of this water as it goes by, however the flow is pretty fast that comes through that property.

You start grading and seeding and taking down trees, I don't know that just putting the downspouts into the sewer system, and grading is going to cover it. It may actually make the flow faster down towards our property, and it already runs pretty fast.

Our system, that is in place, with our water drainage system, was designed back in '94 by Wayne Bell and Peter Arbur, with the town. They had the approval of the Town Manager and I believe the Town Attorney also looked into it to be sure that it would be okay for the town department of engineering to design this system for us. Of course they had no money to actually put this system in, that was our problem, so we were just gracious enough that they designed this system for us. When the Ciarcias moved in next to us, prior to them it was Dr. Zeldes, I think there was a law suit, I think he settled for like \$20,000.00 or something like that. But, he moved away, the Ciarcias moved in, and the property owners, my husband at that time was in business, Mr. Ciarcia was in business, Mrs. Birdsall's husband had connections with construction people, and we all put this system in with our own labor, our own money for materials, piping and drains and digging and the whole thing, back in '94. I have, I don't know if the engineering department has records of all that, I was told that they don't, but I have my own little file that is filled with all kinds of letterheads from the town, and different departments and reports that were done, back and forth between the property owners. I've been there since '93, right after we got married we moved there, and we didn't know what we were moving into until we got there. There was already that lawsuit going on between the people. Mr. Arbor, in one of the reports, did state that on occasion our system would fail, if it was, the right conditions were met, and that is usually late fall, or early spring when the ground is still frozen, somewhat frozen. Actually, last fall, my

neighbor, Amy Ciarcia, they are the lowest point, and water always seeks the lowest point, she had a rive going between our properties into her basement, literally a river, with rolling water and rapids and whatever you want to call it, so at 2:00 a.m., she's out there bailing. She wrote a letter tonight, she has a wake to go to, so she could not come, she said she will make the next meeting if it was still going to be held open, which I think it is, but she has a letter. I can submit it to you, or if you want me to read it, I can read it, I don't know how you want to do that.

Ed Meehan: I would read it.

Christine Tofeldt: Okay, I can do that. What I'm saying basically is when they start changing the grade, and all that, our system is based on the natural flow of the water, that is in one of Mr. Arbur's reports, and it goes into like a swalled area, into our little ponding area, so you definitely are going to mess with the natural flow because you are disturbing the property. So we could really be hurt by this, if it's done right, we maybe be better with this. Visa-versa, there are people who are not affected right now by it, they may be affected by it depending on what changes they make when they grade it, so there are people who don't even know about this, that aren't even here tonight, who may be affected in the future depending on what happens.

I've lived there for twelve years, and I would say, that on two occasions, in twelve years, our system has somewhat failed, with either a big rain storm, or the conditions of the ground being somewhat frozen. It is going to fail, they stated that it would, but for two times in twelve years, that's not so bad for us, because when we moved in, we had a lake in our backyard. Okay, we paid for the system, the town was the one that designed it for us, so there is proof of an existing water situation, the town is somewhat involved, because they are the ones that designed our system, to protect our property, we're just hoping that it continues, and please watch our for our interest, because that is what I am trying to do up here tonight. Seeing tonight, that this board, and the Town of Newington departments make sure that this development is done properly, with extreme consideration paid to the water situation in our neighborhood, and I thank you for your time.

If you like, I will read Amy Ciarcia's letter.

Chairman Camilli: Just before you start, do you have what Mr. Arbur did, any of those plans?

Christine Tofeldt: I don't know if we have them here tonight,.....

Chairman Camilli: Oh, that's okay if you don't have them tonight, but I think it would.....

Ed Meehan: If you bring them in, we will copy them, and make them part of the file and so Mr. Nafis can see them, and our engineer.....

Christine Tofeldt: You don't have any then?

Ed Meehan: Well, Mr. Arbur retired, he's in and out, and we could try and get them from him, but if you have them captured, it would be quicker and we can share them with the applicant.

Christine Tofeldt: I think Mrs. Birdsall has them too, we all kept copies.

Chairman Camilli: It would help with how it is supposed to work.

Christine Tofeldt: Okay. This is from Amy Ciarcia at 113 Vincent Drive. She is my neighbor, just to the south of us. She is the second to the last house at the end of Vincent Drive, abutting the Maple Hill properties.

To the Members of the Zoning Board
January 10, 2007

I reside at 113 Vincent Drive. I have lived at this address for twelve years. I am writing because I cannot attend tonight's meeting, I'm assuming that I would be asked if I was for or against the proposed development. I would have to say that I am not adamantly opposed to the development, but I am highly concerned about the impact it may have on our residence. Since we moved here in '95, water has been a major issue. We have a sump pump and without it, we would be flooded regularly. Even on dry days, the sump hole is filled with water. Although a town designed drainage system was implemented by my husband, along with our adjacent neighbors, we still have to deal with flooding in the spring time. This is a yearly occurrence. Last year it happened in the fall. I believe it was in November, and we had a very heavy rain fall that made the yard, that is between my and my neighbors house look like a rushing river. It came from the back of my neighbor's house, and ran between our houses. Water was pouring into my basement through the small windows that are in the foundation. I am not exaggerating the volume of the water. We have a finished basement that we had to remodel several times, due to the flooding. Carpets have had to be pulled up, and furniture thrown away. We now have ceramic tile, and when the sump pump fails at least that doesn't have to be replaced. It is my hope that the Town will assure us that the proper drainage will be in place before a development such as the one proposed is in place. I thank you for your consideration. Amy Ciarcia, 113 Vincent Drive.

Chairman Camilli: You can submit that letter for her.
Thank you. Is there anyone else that wishes to speak against this application?

Steve Tofeldt 107 Vincent Drive: I just have one question, the engineer stipulated that there is going to be a swale running along the east side, and that it was going to drain towards the south, coming towards our property. Am I wrong in assuming that the Town has a net zero policy for drainage runoff, so that means that once they begin to develop these properties that all the water that is on that property must stay within that property or be pushed back to the roadway so that it does not go onto abutting property?

Ed Meehan: That is the design standard that the Town would be looking to achieve. Zero runoff.

Steve Tofeldt: Zero runoff. And I heard Mr. Sabatini say that they were going to accept the zero runoff. I really can't see how he's going to do that, with ten foot side line setbacks on each side, abutting Vincent Drive, and be able to carry the swale around, and run it back. That was my question, and you've answered it. Thank you.

Chairman Camilli: Okay, thank you. Is there anyone else wishing to speak against?

Attorney Sabatini: I'll have Alan Nafis answer the technical questions.

Alan Nafis: The first questions is, Ed, you said zero runoff, I don't believe that you meant zero runoff, I think what you meant was a zero increase in runoff, off of the site. Is that correct?

Ed Meehan: Zero increase, right. You are going to have run off.....

Alan Nafis: Well, that is my point, we are not building walls around this, so there is no run off, but I would like to point out what we have done, because we are quite aware of the fact that drainage is an issue back there and we've tried to address that, and hopefully the engineers will have a chance to look at it, and agree with us that we have addressed it properly. This is going to be a little bit redundant for those of you who were here last time, but I am going to explain how the

drainage is going through this property right now and what we are doing to try and alleviate some of the problems to the south of this, actually. There are three basic drainage areas going through this property right now. There is a high point that runs right through here, that (inaudible) is heading out towards the road, basically that is where it's going to go when we're done. We're not making a lot of changes in here, some of that water will come down into the road, and into this detention system that we designed in the road itself, but basically that water is still going where it is, nothing is getting diverted to the south, all going out towards the road.

The middle here, there is another high point that runs pretty much through the cul-de-sac on an angle like this, and this whole middle area is coming down and running across the property. This is what I was talking about before, the contours in here show that there is positive flow, there is no real big pockets of water you are going to find in here. You might find some small isolated ones, but what that is, we've got 1700, almost a half an acre of land north of here, that is coming onto this property, and another four to five acres through the center of here, all of that draining down to the south. What we are doing with our proposal here, since quite frankly, I couldn't find any way to get the water from here, down to here, we're bring everything that comes down from here, and coming, sheet flow between the buildings, or off the buildings themselves, or down the driveways, is all coming into the street, into the cul-de-sac. All the houses are tied in through the roof drains underground, into the catch basins that are in the road. In addition to that, the front part of the yards are all, on the south side, are all draining into the roadway, from the south, and getting into our detention system there. So basically that center area which is maybe, I want to say about four to five acres of land coming through here, we've eliminated all that water so just the back of these houses are coming out here. The calculations, which I'm sorry I don't have now to show you, there is quite a reduction in the area draining down through here, and no This back here, again, not as much area to work with, but it's not as much flow going down here, and there is, again, we have the one foot contours. We do know that there is a berm along here, and some of that water is getting trapped and pushed to the south. A lot of the water here comes, not from our site, but coming from up here, is flowing down and looks to be straight, we don't have contours all the way up, but looks to coming down straight towards Vincent Drive. What we are proposing to do is, we're cutting off a portion of that drainage area, because everything that is paved or impervious is going to get into the street, and again, through the roof drains and underground drainage is going to get into the detention basin here, so that what is draining back to the south here, again is what is left of the grass areas and again, I don't have the calculation in my head, it's in the drainage report, that we did reduce the amount of area going back there quite a bit. As far as the swale goes, there is a ten foot side, we had actually designed it with a twenty foot area, so there would be room for the swale, and what we said tonight, by revising the backyard and the side yard designations, we will have a thirty foot space in there, so we have plenty of room to put a fairly gentle swale in there without grading all the way back I think.

Chairman Camilli: Would you answer the person who came up about the height of this, versus where he is.

Alan Nafis: Well, I know that it drains down from here. All of our work is being done on the top, so we are going to have our soil basically from the back of our property taking that water down through here, which is essentially where it is going now, except that there is more of it getting there now, we're taking some of it away. It starts to drop off, you can see on the contours here, it starts to drop off after it gets off of our property.

Ed Meehan: Alan, does your cross section below for the road show, on the easterly side the little existing swale that one of the neighbors mentioned in his back yard. I'm pointing to, it would be in this area here. This is the center part, is that off the site?

Alan Nafis: Yes, no that is not actually. The back of our site is right here. This is where the berm is, it looks like the berm is starting right in here. It's actually pretty hard to tell without some spot elevations, but see the ground is bermed up at least through this area here. That is what is creating that little swale, and we're, there's not going to be much more of a swale than what is there now, because we are not getting a whole lot of water in this little area, which is, our intention is to make a gentle swale back through the back yards, but the amount of area that is actually draining to the south is going to be quite a bit less than what is going there now.

Chairman Camilli: Did you calculate, you said, from the back, only from the backs of the houses, south.

Alan Nafis: In this center area, yes.

Chairman Camilli: Did you calculate what that runoff would be off of those houses.

Alan Nafis: Well, we calculated all of that, again, I don't have that, and then generally what happens, its swalling to where it is swalling now, the low point is down here, and it's heading in that direction. I don't know what happens after it gets off that property.

Chairman Camilli: Well when you create that swale, I think what the other fellow, the fellow who spoke at the end said, when you create this swale, the water that is in the swale, is it running to the south?

Alan Nafis: Yes.

Chairman Camilli: This way, to the south.

Alan Nafis: Yes, which is where it is going now.

Chairman Camilli: It's where it is going now?

Alan Nafis: It's where it is going now. This area back here, comes down, again, there is a berm here, this water is coming down, hitting that, and heading out in this direction.

Chairman Camilli: So the question is, will that be zero increase with the runoff, or with development, without the trees, be more than is already there now?

Alan Nafis: No. Because we are taking a good portion of the area away, that's why. Yes, you are right, the grass will have a little more runoff than the trees would, but we are taking a good portion of that area out of the drainage area itself.

Chairman Camilli: This gets a little esoteric for laymen, that's why we have to make sure that the engineers calculate this properly. Also, the question came up, in my mind as you were talking, whatever they did to remediate, the plans that we asked for from that other lady, does this affect that? Do you think this is going to affect what was done there?

Ed Meehan: I don't know. I would have to see what those plans are and where was it down, and was it built to the plans, or did they decide to change it in the field. All those things would impact.

Alan Nafis: I suspect not, because we are pretty well isolated in taking care of our problem here, and keeping more water from flowing to the south.

Chairman Camilli: I think what you heard tonight from the public and certainly the concern from the Commission as far as I'm concerned, water and drainage and so forth, I think everything is hinging on that particular aspect, so hopefully, as the attorney said, it is done right, and that is our objective.

Alan Nafis: I certainly would like to think that it was done right. I mean, we understood what the issue was when we started this project and we did our best to come up with a way to get the water out of there without impacting the neighbors and without impacting the system that is going into Maple Hill Avenue right now.

Chairman Camilli: Okay, we'll keep this open. If the neighbors have any, you can rebut that, or if you have any more questions, people who came out, if you have a question, you may come up one more time. If you take the interest to come out, we want you to have the input.

Steve Tofeldt, 107 Vincent Drive: He's stating that the water is, let me back up a minute here, you state that the town policy is a zero increase, it's not a net zero period that all water once he builds a house that it has to stay on that site.

Ed Meehan: Zero increase.

Steve Tofeldt: Zero increase. Now, what he is proposing to do is concentrate the water and a swale and run it towards, we'll use the church because that is the stem of this whole problem here, on Maple Hill Avenue, is the dam. So all of the water from the five acres that they spoke about comes to the end three houses on Maple Hill and Vincent Drive, and it's basically just two houses, actually three, because the houses on Maple Hill Avenue slope toward Vincent Drive somewhat, so there was a natural swale that went around, through the church property, out into the old Eddy Farm and then across through the golf course. But now what he is proposing to do is create a swale, which will actually increase the flow. It's going to actually increase the sheet flow at a faster pace now because, let's face it, that's like a pipe line now, and that will be coming into the abutting properties. He may decrease the amount of water, but it's going to increase the speed at which it is coming down because there are no more trees, there are no more logs, no more sticks to slow it down, so we are still going to end up with that problem. Now I just have one question here to the Commission. Theoretically this point here, where they are going to be building these two houses is higher than their low point here. So why couldn't they cut this area and use this, and keep this at the same level and be able to drain this water back and be able to handle this, by putting a catch basin here at the end of their swale, so theoretically from here that way will still flow so this way would still come this way, and kind of decrease out flow, but from here to there looks like about a good three foot pitch, so he could keep this straight and cut all this out, and drain everything to a catch basin right here.

Chairman Camilli: That's a question that I don't know if Alan may want to, you know, the Commission doesn't, we don't do design.....

Steve Tofeldt: I understand that.

Chairman Camilli: So, Alan if you want or if you, at this point. You have the final say, just to get clear.

Alan Nafis: You're right, the swale does make a difference and without having the trees there, that is taken into account when we calculate the peak run off, off the site, that is taken into account, so it will be part of that calculation, there is a little more runoff off of a lawn than there is off of trees, that's all taken into account, and what we have shown is that the peak runoff off the

site is less than before, again, generally that is because we are diverting a bit of it. Now, I think you are probably right, physically we could divert more of that water over there, generally we try not to divert water sheds if we don't have to. In this case, there are a couple of implications, of course there are certainly cost implications, putting more pipe and another catch basin in there, and there's also implications as to what this does to this detention facility, because that is a larger volume of water coming down into the detention facility and that increases the use of that, and creates other issues of what we are trying to do with that. Physically, yes, I think it can be done, and you know, if you listen to the comments of your engineer, because I do believe that we are decreasing the flow that is coming off of our site at this point.

Chairman Camilli: As I said, the Commission, we don't have that type of expertise to be the engineers, and it's a suggestion, as you heard, and maybe it will be taken under consideration. I think we are all set. We will see you in a couple of weeks.

B. PETITION 74-06 Assessor's Map SE 307, 1987 and 2169 known as 119 Deming Street, Frank A. Accarpio and Thomas Accarpio owners, Deming Street Development, LLC, 312 Murphy Road, Hartford, CT 06114 represented by Attorney Timothy Sullivan, 9 High Road, Berlin, CT 06037, request for Special Exception Section 3.19.2 (23 detached residential units,) PD Zone District. Inland Wetlands Report required. Continued from December 20, 2006.

Attorney Sullivan: Good evening, Attorney Timothy Sullivan, representing the applicant. Since the last public hearing, myself and the engineer met with the Town Engineer and the Town Planner to discuss some of the comments made at the last public hearing. It was a consensus out of that meeting that we would look for some interpretive guidance from the Commission before we spend the time and the energy and money to revise the plans to try to achieve a development that is acceptable to the Commission.

There were some conceptual issues that needed to be addressed, and I drafted a letter to the Town Planner in accordance with our meeting of a week or so ago, I don't know if everybody has that letter.

Ed Meehan: They should have it, on Attorney Sullivan's letterhead.

Attorney Sullivan: I don't know if you have had a chance to go over that.

Chairman Camilli: No we haven't, it was on our table tonight.

Attorney Sullivan: Okay, no problem. If you want to take time to read it....

Chairman Camilli: No, you go ahead.

Attorney Sullivan: Well, the first issue that we identified at our meeting, and it was a meeting that took place on January 3rd, a week ago, was whether the regulations, the Planned Development Zone regulations allows for detached single family housing, the Planned Unit Development. It's still a common interest community, but a planned unit development that we have proposed. It's obviously our position that it does permit that and we are looking for some guidance from the Commission. Specifically, the regs do not prohibit, in fact do not limit in any way the type of residential development within the Planned Development Zone. In fact the regulations simply state that permitted uses are residential buildings.

Within the staff report there was an issue raised that the Plan of Development's Housing Component, well, first of all it says that Section 3.19.2 A and B, seem to set forth standards and I

think as everybody knows, we can't really deal with vague standards. As a property owner, or as an applicant, we are trying to have some concrete standards that we can apply to our development, or any development, submitting it to the Commission. We believe that the regulations allow for detached single family housing, or a Planned Unit Development. Just to make reference to a couple of things, the regs have never adopted a standard that there be attached multi unit structures. It just says residential buildings. It also states that the Plan of Development's housing component recommends a strategy that higher density, multi unit housing is appropriate within the town center, and on larger parcels adjacent to the Berlin Turnpike. I guess literally this parcel is not adjacent to the Berlin Turnpike. There is a buffer parcel between it and the Berlin Turnpike, so I don't think the Plan of Development's housing component really addresses this particular parcel. But before we spin our wheels and start coming up with, we think we can develop a project, a plan that would be acceptable to the Commission that stays within the character of the single family residential housing across the street on Winding Brook and Barn Hill. But, before we start revising our plan, we just would like some guidance from the Commission whether detached single family planned unit development would be appropriate.

Chairman Camilli: Well, we can discuss that. I don't know if the Commission understands what is going on here. We've been listening to this, a couple of weeks ago. Do you want us to discuss it now, or do you want to keep going, whatever you want to do.

Attorney Sullivan: Well, you can discuss it now.

Chairman Camilli: Well, so the question is whether or not we can allow single family detached houses in a PD Zone. The bigger question is then, if we allow that, what standards do they follow, what regulations do they follow. Do they follow the regulations of the sunlight, thirty-five foot setbacks, or, see, it's like expedient for the applicant to take part of one, part of another, and take the best of both. My opinion, if we allow, if we come to the conclusion as a Commission that we are going to allow this in the PD Zone, the single family, then, in my opinion, they should follow the rules of the setbacks and so forth.

Commissioner Fox: I agree.

Chairman Camilli: So that would be my, but you know, it's open to discussion. I think this will give the applicant some direction.

Commissioner Fox: Well, I don't know. I agree with you that if we do allow single family detached housing, in the PD, that they should still follow whatever regulations, such as you say, height requirements, distance to, between houses, full access, and they should have to follow that right down the line, whether it's single family or multi unit dwellings. As far as age restricted, age restricted is age restricted, to me, I don't know if that is a gray area or not to the rest of the Commission, but he mentions here if he wants to restrict the buyers to a certain age, over 55 is one thing, but then it becomes age restricted housing so it falls under our regulations.

Ed Meehan: No it doesn't.

Commissioner Fox: Oh, okay.

Ed Meehan: If I could interrupt, age restricted housing is permitted in two zones, by special exception, the R-12 zone and the R-20 zone, where there is specific criteria for age restricted housing, and it sets forth the density and applies the standards of Section 3.7. If they want to do age restricted housing, that is something that they are imposing on themselves from a marketing point of view. It doesn't carry any special standards.

Commissioner Fox: Okay.

Ed Meehan: That is their own decision. If they decide not to do age restricted housing, and you interpreted it that this could be single family detached, following your standards, if you also interpret it that way, then they could market this to families.

Commissioner Fox: Whomever they wish.

Ed Meehan: Yeah.

Attorney Sullivan: But just to be clear, we would have no problem as a condition of this approval that there be an age restricted component in the declaration or by-laws.

Chairman Camilli: Well, to me, that would be the way, as far as the Commission to interpret this, because of the commonality of the ground, and so forth, you could make a case that we could allow that even though single families aren't allowed in this zone. I mean, the only way that we could do that is to give you the interpretation that it is like a condo, if you will, complex, that way, because of the way condo developments are, we could interpret that, and so you could do that, if the Commission so wills, but then this other part also has to fall into place as far as I'm concerned.

Alan Nafis, A & N Engineers: I think the problem that we had in going through this thing, is that, in my mind the regulations are somewhat ambiguous. It specifically states residential units but it doesn't specifically state apartments, single family, what have you, but if you read the conditions that are put on this thing, it's obviously meant for multi-unit. It talks about stand pipes, it talks about sprinklers, it talks about minimum two stories, maximum four stories, I think what we are asking, and I don't want to step on Attorney Sullivan's toes, but I think what we are asking, want to clear that the single family use is allowed in this zone and what we would also ask is that if you are going to allow the use here, at least allow us the same types of conditions that you have in other single family zones, I mean, for instance, an R-20 zone, you still only have a ten foot side yard, and I know that house that I live in is nineteen feet away. I think when you start applying the sunlight standards on single family homes, I don't think that is the purpose of those conditions, so we are asking the Commission to tell us that we can use the single family homes. I think we can do a decent development here, we can make some changes to address some of the issues that are here, but I think we have to understand what those conditions are really about.

Chairman Camilli: Do you have any comments on that?

Ed Meehan: Well, I think it's an interpretive question as both Attorney Sullivan and Mr. Nafis just put forth, but I don't believe that the Commission, or any land use Commission has the luxury of picking from another district the type of standards that you want to apply to this district. It's, if you interpret this to be permitted in this zone, in my opinion, they follow the standards that are set forth in this zone. It's not well, because we can do a better project, we're going to do a twenty foot side yard because it works, or we are going to do fifteen feet between buildings because it works, now, every zone in Newington has different design standards. Whether it's R-20, R-12, R-7 has different frontages and densities and for the most part different side yard and front yard setbacks. That is the purpose of zoning, and to me, to sort of randomly say, we want to pick and choose, doesn't follow the principle of zoning. If you give them the interpretation that single family detached housing is permitted here, and you are going to do it under a home owners association condo, I think they have to meet the criteria that is set forth in the regulations, the side yard setbacks, the issue of sunlight, the front yard setbacks. Not only is it in this section, but you go to the schedule A of schedule of height, area, yard requirements, PD Zones, Residential, you have to have five acres, you have to have seventy foot frontage, they got that, front yard, thirty-

five feet, minimum side yard, twenty-five feet, rear yard, thirty-five feet, four stories. A lot of this, to me, and I sort of agree with what Alan says, puts this into motion as a multi-family development because of the parking standards, and a whole different section, parking garages and surface parking. But, if the Commission goes with detached, then I think the two critical standards are going to be the separation of buildings and the front yard setback from the street.

Chairman Camilli: The thought that I had was that apparently this type of development which is quite common today, age restricted and single family homes but they are run like a condominium association, I don't know if our regulations really cover that. I think that the problem is that we don't really have anything to guide us.

Ed Meehan: Well, you do. You have Section 3.7.2. The Commission adopted that section specifically for age restricted housing.

Chairman Camilli: But what type though? Age restricted, that's fine, but single family?

Ed Meehan: Well yes, because that refers to the R-7, which is a single family zone and the R-12 zone, which is a single family, so when you adopted this, you said, you can do age restricted housing in the single family zone, detached.

Chairman Camilli: And what is the criteria?

Ed Meehan: The criteria is up to twenty units per acre, which is pretty high, they have to have at least five acres, and then it's basically the patio house standards for the twenty-five foot front yard setback, fifteen feet between units, those are the standards. You can do it on a private road, because of the condo association, the example is Fenwyck Estates.

Chairman Camilli: So the problem is that this is in a PD Zone, and you're saying that we have to adhere to, in your opinion, we should adhere to the PD Zone standards.

Ed Meehan: The design standards for the PD Zone, whether it is age restricted, or not.

Attorney Sullivan: And we agree.

Chairman Camilli: Well, if you agree, then these questions become moot.

Attorney Sullivan: Well, I think we have to discuss the issues because, number one, front yard setback, well, really the setback is from Deming Street and we achieve the front yard, side yard, and rear yard setbacks from the only public road which is Deming Street. The private road that we are proposing, for instance, for the setback for the garage, thirty-five feet. Well, we are thirty-five feet from Deming Street. By a strict, when you read the definition of street, in the regulations, any way dedicated to public use and any way over which the public has a right of vehicular travel. The term street shall mean the entire public right of way and not the paved portion only. So it really doesn't apply to a private road and I will expand on that in a second, but getting back to what we were saying before, about the age restricted, we are not here tonight looking for a density bonus by putting a limit on the age restriction. That is typically what you do when you have the age restricted, active adult, 55 and over density bonus within a zone, while you get that density bonus by placing that limit on there. We are placing that limit on there ourselves, that is our marketing strategy, but we aren't looking for any density bonus. We are staying within the density requirements of the PD Zone. In the PD Zone, the setback clearly, the garage setback is clearly from a public right of way, so we think we meet the standards set forth in the zone.

Chairman Camilli: Okay. Now, what is your interpretation because I'm getting kind of.....

Ed Meehan: My interpretation is that the thirty-five feet is measured from the edge of the pavement.

Attorney Sullivan: But what pavement.

Chairman Camilli: Wait a minute...

Ed Meehan: From the road pavement, the proposed road that goes through here.

Chairman Camilli: Okay. So we have both sides. We're getting an interpretation from the Planner, we're getting an interpretation from the attorney. We have to decide....

Ed Meehan: The reason I say this, and I said this to Attorney Sullivan when we met, there are other private roads development in Newington, not too many, but where the setback from the edge of the road to the front of the building was applied based on the standard of the zoning regulations, like Adams Drive, off of Webster Street, it's a thirty foot road, the front yard setback fits the patio development which is twenty-five feet as called for in the regulations. It doesn't say anything about right of way. Willow, off of Rowley, the same way. Fennwyck Estates, the senior housing, we just talked about, Brooks Edge, and SunnyBrook were developed that way.

Chairman Camilli: So there are precedents that have it measured from where you are saying.

Ed Meehan: Right.

Attorney Sullivan: But that's a requirement, as you stated, we have to meet the criteria in our zone, well, they had to meet the criteria in their zone, and their zone required those setbacks from a private road. Clearly in those zones, they had those setbacks from a private road. In this zone here, there is no setback requirement from a private road.

Commissioner Fox: As far as setbacks, I really, in the spirit of the regulations, I don't see any reason, anything forgoing to require a thirty-five foot setback, in this case, from a street like Deming Street. I think the idea of this regulation is to require that the garage be thirty-five feet from the road, whether it be public or private, to which they have access. You know, safety and other reasons, so I think Deming Street, your opinion or your interpretation as thirty-five feet back from Deming Street is really, it's not viable.

Commissioner Ganley: What obligation does the Town have to accept a subdivision street after it's built, in which the developer says I'm going to quit claim it to the town.

Ed Meehan: We would only accept it if it is built to town standards.

Commissioner Ganley: And if the street were built to town standards, okay, and we were to accept the petitioner's interpretation of the setback, and then they quit claimed the street to the town, it would be called checkmate, I believe, because they would have the lesser setback up front, and then they quit claimed to the town.

Ed Meehan: They would have to do a fifty foot right of way, and they would never be able to come close to what they are doing here. In other words, there would be a fifty foot right of way, and then there would be, if you interpret it the way that the Attorney is asking, it would be thirty-five feet from the edge of that right of way, so now, they're off, they can't do any units in there, at least the way that I interpret it, they don't have that fifty foot right of way.

Attorney Sullivan: But there is no intention of quit claiming this road to the town. This is going to be a private road, the association is going to maintain the plowing of this road, the maintenance of this road, it's never going to be a public road.

Chairman Camilli: Okay. Do the Commissioners have any more questions. You know, I think we very logically try to come to some kind of conclusion, if the applicant wants direction. Do you have enough, do you have it clear enough in your mind what you want.

Commissioner Cariseo: It seems as if we allowed this, it would just open up Pandora's Box and mess up everything that we had planned for.

Ed Meehan: Well, whatever way you interpret this, attached single family put in the PD Zone, whatever design standards you apply, is your interpretation for other pieces that may come forward like this, so be careful in how you interpret this. I don't know if there are any other pieces like this, but you, surprises happen.

Commissioner Cariseo: I'm sure somebody can find one.

Chairman Camilli: Okay, let's take it one at a time. Would you think that we, do you think that we should allow single family detached houses in the PD Zone?

Commissioner Cariseo: I say no.

Commissioner Fox: No.

Commissioner Ganley: No

Commissioner Schatz: No

Chairman Camilli: I say yes, and I'll tell you why. Because this may still be the best of a tough situation. Before, you know, it's going to, in my opinion anyway, not give the applicant any room but to put in multi-family housing. If that is what you want to see, then you would vote no. Now by restricting, the way that I look at it anyway, if we allowed this, but restrict it to Ed's interpretation, which would be sunlight, thirty-five foot setback from the street, not Deming, and what was the other thing? There was one more, too.

Ed Meehan: I think there were three. One was the detached....

Attorney Sullivan: One was the age restricted.

Ed Meehan: That's it.

Chairman Camilli: Okay. That way there, if it was restricted, they would have to come you know, if we allowed it, it would give them at least the opportunity to do something like this, but perhaps in a more condensed fashion. Not as many units perhaps, because they would have to conform to the side yard setbacks and so forth and so on, but it would be single family detached houses. Now, you know, from the way that I look at it anyway, I would, it would seem to me that I would

rather see, and I think the applicant was right, I would rather see single family detached houses there, than a multi-family structure.

Attorney Sullivan: If I could interrupt just briefly....

Chairman Camilli: We are in the middle of a discussion, I'm trying to convince them to maybe, perhaps change their mind. If not, that is the way the interpretation is going to go, so just so you can clearly understand if we don't give the applicant the opportunity to do this, then I think the multi-family housing or whatever, if that is what you want, so be it. It's the will of the Commission, I'm not going to go any further than that, but I would like to see them have this other opportunity, myself.

Commissioner Ganley: I think what is happening is that we are all looking at the same site plan, and our opinion is reflected off of what we can see. There is certainly an opportunity, I would imagine for the petitioner to come back with something that looks probably different than this, which may then persuade us. But as we look at this....

Chairman Camilli: Well, it wouldn't necessarily, if we interpret, see they are interpreting it without the setbacks that we want, which would change this, and I think before they go any further, and I think they mentioned this, they don't want to go any further than, so if we say no to the single family detached housing, if we don't want to interpret that, then it doesn't give them really any alternative to do that, if they so wish, to go back and redesign it. If they want to.

Commissioner Ganley: We haven't taken an official vote.

Chairman Camilli: Yeah, I'm not really, I wanted to try to convince you to just, maybe convince you to my position, I don't know if I, maybe I should have gone first, I don't know. I'm not, things I don't care about this, there are too many units in there, I don't like the fact that we worked very hard, we had a long, long agonizing petition with Walgreen's, including the owner of this property, who was so concerned about the infringement of what was going on with Walgreen's, now they are going to take the trees down. We had the trees, we tried desperately to keep the trees and keep that screening there, now it is all going to go. I'm not really, I would like to see the trees stay to be honest with you to protect that whole neighborhood from the glare of the lights and what is going on there, and a less impacted area. But, again, I'm only one person.

Commissioner Ganley: But the onus is on the petitioner to do the convincing I think at this point and the only thing that we are looking at quite frankly is this, which was presented to us and that is all we have to base our opinion on, a particular site plan, and an interpretation....

Chairman Camilli: No, Tom, we're basing....

Commissioner Ganley: I read that.

Chairman Camilli: And that is what we have to figure out first. We have to give them the okay that we are going to interpret it that way, otherwise it goes nowhere. If the vote goes four to one that they can't put single family houses, this goes away.

Ed Meehan: It's like a generic interpretation, whether it is this site, or some other site, that would apply to subsequent applications. It's not the site plan, you know, the site plan, you should have blinders on about the site plan, really, because what they need, and we went through this with the attorney and his engineer when we met, he really needs to know what to apply for this site, or any other site, as to the dimensions, which his professionals will take back and try design, but, that's why I said it's generic in that respect.

Chairman Camilli: So we don't have to look at the site plan, we just have to say whether or not we want to interpret our regs so we can put the detached single family houses in a PD Zone, and that is the number one question, and as I went around, four of you said, we don't want to, and I'm not so sure we don't want to do that, in my opinion, but if you want to hold to that, your opinions, then I think we can end the discussion. I tried to convince you otherwise, then maybe we can proceed with the other two interpretations and see if you want to do those, and then the applicant will at least have direction. Because if you say no, we don't have to worry about the other ones, because they are not even going to go there. We're not going to even (inaudible) to be honest with you. We don't have to. And this site plan, Tom, goes out the window. We're not going to allow single family units there.

Commissioner Schatz: What I would like to see, not even looking at this, okay, I'd like to see sidewalks, I'd like to see a setback, I mean that gives people who are buying you know, a home.

Chairman Camilli: I agree with you. And we should, if it came to that, but by saying no at this point, you know, it precludes that, so I think the first question is, if I didn't convince you, I could take another straw vote, because these are, there was no motion or anything, I don't know if that convinced you or not, but I agree with what you are saying if it comes down to that, you know, there are other things that we would probably want in the development that make it look nice. I agree with you, but we're not there yet, but if you say no, it's multi-family.

Commissioner Schatz: But if we say yes, what's the outcome....

Chairman Camilli: Well, that doesn't mean that the site plan goes through the way that it is, and if we interpret these other questions, with the sunlight and the thirty-five, that is going to reduce the density of this application, and perhaps you could put the sidewalks in and so forth. Do I make sense there?

Commissioner Schatz: It sounds reasonable, but....

Ed Meehan: They are all inter-related. If you say single family detached is permitted, then you have to have a set of standards, design standards to go along with that, which this applicant, or any other applicant is going to use to layout their site, and then that goes to the next two questions that Attorney Sullivan is asking for guidance on. Do you apply the thirty-five foot setback, from the private road, or do you buy his argument? How do you space the buildings? Do you, I don't know where they came up with the fifteen feet, it's not in the regulations, it just says sunlight, and so they designed it based on about fifteen feet, some are closer, some are nine, ten feet, depending on whether they are patios or decks, I can't tell from that plan, but this is my impression, and it may sound harsh, it seems like they have picked the standards that fit the site, and that's not the way that it is supposed to happen. It's, pick the standards that are in the zoning regulations and those standards are there to bring forth some functionality of a site. If the setback from the road is a little bit deeper, you can park your cars better, you can have sidewalks, you can have more front yards. That's part of it. I don't know where, I hate to get into the site plan, but they came up with twenty feet, and I don't know where that twenty feet, it's no where in the regulations, twenty feet.

Chairman Camilli: Well, it makes it work, that's all.

Ed Meehan: It works because then they aren't into the fifty foot wetlands.

Chairman Camilli: I understand.

Ed Meehan: So this is all like an interlocking.....

Chairman Camilli: And from our point of view, I think, I'm not sure, I think we should give, well, it's my opinion anyway, give them the opportunity to redesign their plans, if they wish, if we so, otherwise we are going to stop this, right now. So, I don't know if I convinced you. I'll start with you again, otherwise we're not getting anywhere with this.

Commissioner Schatz: Excuse me, they would come back with another set of plans that would say, thirty five feet, and sidewalks and so on, or they come back and say multi.....

Chairman Camilli: Well, that's what it's zoned for, but if you say no, it precludes them from doing anything else, that's my point. Now, what they can design, using as Mr. Meehan said, using the standards of the zone, and using the thirty-five foot setback.....

Commissioner Schatz: I would agree with that.

Chairman Camilli: Okay, so you first have to agree that they are allowed to put in single family housing, otherwise it doesn't work. So I will go around again.

Commissioner Schatz: Without getting trapped.

Chairman Camilli: Do you want to stay the way that you are?

Commissioner Cariseo: I would be amenable to what has just been presented. Based on what I saw, I was not. If we have the ability to change it into something that we find acceptable, other than that.....

Chairman Camilli: Okay, so you would say that they could be allowed to do it?

Commissioner Cariseo: Yes.

Chairman Camilli: That's all it is at this point. That doesn't mean that they are going to do it, by the way.

Commissioner Fox: Your argument is very convincing Mr. Chairman, much more forward looking than mine, so I would agree with single family.

Commissioner Ganley: I would agree, as long as we are not mouse trapped, that this is a very piece meal consideration that we are giving to everything, that because we approve something is no implication that we have approved something else.

Chairman Camilli: No, no, no, we have to be consistent.

Commissioner Ganley: Our approval is based on a very narrow....

Ed Meehan: That is why we have standards, to try to apply consistency.

Chairman Camilli: We are going to apply the standards of the zone. If we are going to apply that they can do it in the zone, then they have to meet the standards of the zone, and that is the bottom line of this.

Commissioner Ganley: Well Vinnie, I will tell you this. Obviously your Italian heritage must have been schooled in the Roman forum, so I will change my opinion from no to yes.

Commissioner Schatz: Same thing.

Chairman Camilli: Okay, now we have to go to the other standards. Should the standards apply, and I'll just take this generically, and we can move this right along. Do you think what Mr. Meehan said, about the sunlight, and the thirty-five foot should be measured from the street, not from Deming. And the age restricted....

Ed Meehan: Age restricted is a moot point.

Attorney Sullivan: Mr. Chairman, before you move on, I would like a chance to address those issues if I....

Chairman Camilli: Well, it's not an issue, at this point the Commission is making an interpretation of whether or not we want to move this along.....

Attorney Sullivan: If I could just have two seconds.

Chairman Camilli: Go ahead.

Attorney Sullivan: The whole reason I'm saying this is because the whole idea of single family detached planned unit development, and the criteria, we think we are meeting the criteria, but we, there is room for improvement in this plan, and we can reduce the number of units and we can increase the setbacks and we can provide a setback, however, I'll be honest with you, we cannot provide a thirty-five foot, at least economically, we cannot provide a thirty-five foot setback. But, we can, you know, we can probably come close, and my point that I'm trying to make is that there are no hard and fast numbers within these regulations in the Planned Development Zone. For instance, on the spacing issue, provide for full sunlight. What is full sunlight? You have the curvature of the road, you have the topography changes, we believe we can provide more spacing between these units, but to provide the spacing of twenty-eight feet that the Planner, the Town Planner is saying that is required, which isn't stated in the regulations, there is no number in the regulations for spacing. It simply says, full access to the sun, and then the Town Planner said this usually means, well, is this in the wintertime when there are long shadows, in the summertime when there are short shadows, I mean, this is the vagueness that we are getting into. My point that I'm making is that there is no hard and fast number, we can give you a better plan, a less dense plan, more setbacks, better spacing, but I'll be honest with you, we are not going to be able to achieve this thirty-five feet. What we would like is the opportunity to come back and show you a better plan, if you are open and receptive to that, otherwise, I mean what we are really looking at is probably four, four story block buildings with fifty or sixty units in them, and we really don't want to do that.

Chairman Camilli: We really don't want to see that there either. That is why I have pleaded the case. My question to the Planner consistency, we have to be consistent. In other words, if we change this and make this interpretation, again, this is the Commission, as far as getting the education on this stuff, then it would apply to any PD zone, that they could do that. That's what the Planner said. Now, what the attorney just said, and I can appreciate some of that, but, do we have the luxury to say, okay, not thirty-five, but thirty-three?

Ed Meehan: I don't think you do. If you make up your mind that it includes from the edge of the road, whether it is a private road or a public road, it's thirty-five feet. This is not designed like a Chinese menu, well, we have to fit this in here, fit that in there, this is, it's not that open ended, in my opinion. They can spend a lot of time designing this, and they could come back, this is a special exception, and you could say, no, has too many units, doesn't have what we want, doesn't have the amenities that we want here, and they just wasted all that time. I think they are holding the threat of multi-family housing over your head here. And they have the right to do that, right now.

Chairman Camilli: And they have the right to do it.

Ed Meehan: You have just given them another land use here, if you interpret that they can do single family, detached, that is just a bonus of another land use that they can do here.

Attorney Sullivan: I think the regulations provide for that.

Ed Meehan: Well, the Commission clarified it, it does. I didn't think that it did. They say it does now, so now in the menu of uses to do in the PD Zone, you can add single family detached, officially.

Chairman Camilli: Well, we haven't, but we didn't get, this latest, the Attorney is pleading his case again, now I'm not sure we can waive anything other than what we said we would do here.

Commissioner Fox: I agree.

Chairman Camilli: So, I think to be consistent in the future, if we do this, whether it is this piece, or any other piece, then we have to interpret it as, yes you can, put in the single family, but you have to adhere to the standards of the PD Zone, whatever that is. Do you agree with that? I don't even know, you're the attorney, I'm not an attorney, but I don't think we can waive, you would have to go to ZBA and say, these are our standards, we can't waive our standards, as you probably know.

Attorney Sullivan: We aren't asking you to waive it.

Ed Meehan: He's asking for an interpretation, an interpretation that...

Chairman Camilli: But we know that it is a thirty-five foot setback from the street, in that zone, that we do know.

Attorney Sullivan: But the street is Deming Street, in your regulations you define street as a public right of way. This is not a public right of way. The public right of way is Deming Street.

Chairman Camilli: Well, that is your interpretation.

Commissioner Schatz: I think you have done a wonderful job of making the case for the attorney, and then the attorney comes back and lays another smoke screen.

Chairman Camilli: I understand that, thank you.

Attorney Sullivan: I'm not trying, these are all related.

Chairman Camilli: I know that, I understand the practicality, I know what you are saying, I just don't know if we, as a Commission, can do what you are saying, you say, well, we come close to meeting these standards, but we don't think we can meet them, and that puts the Commission in a very difficult position. That's why I said, ZBA, and I know that we can't, but you say you're not asking for a waiver, but if it says thirty-five feet, from the road, and you do thirty-three feet, well, it's a problem for the Commission.

Attorney Sullivan: But I think the regulations define road as a public right of way.

Chairman Camilli: I agree, but we are interpreting it as from the street, so.....

Attorney Sullivan: I guess I'm asking you to leave that open, and it's not clear, I think it is clear, that it is a public right of way.

Chairman Camilli: Okay, well that is your opinion, and I have every Commissioner in the room shaking their heads, so I just think that we are going to allow, I think the ruling is going to be we are going to allow it, with the single family, but it would have to adhere to the standards. Do you agree with that?

Commissioner Cariseo: Yes.

Chairman Camilli: Do you agree with that?

Commissioner Fox: Yes, Mr. Chairman.

Chairman Camilli: Do you agree with that? So that is the ruling of this Commission that, you know, for what it may bring about, it brings about, but I don't think we can circumvent our own regulations when it comes to not adhering to the standards.

Attorney Sullivan: The last thing that I heard was something that we can work with, and maybe come back with some changes to this plan, because in our opinion, we can submit a plan which adheres to the standards, which meets the criteria, you know, and at some point, the Commission is going to have to decide whether it meets that criteria, in a formal vote, as to whether the criteria is a private road, or a public road.

Commissioner Ganley: We better lay that to rest, otherwise we will set him off on another aborted plan, so we better lay that issue to rest.

Chairman Camilli: We're trying to.

Commissioner Ganley: What we believe constitutes thirty-five feet from where, before they go off and start sketching again.

Chairman Camilli: I agree with you, but you know, there is a difference between listening and hearing. We said it, but it's not going through, so whatever they want to, they can do, whatever they want to do, but I think the interpretation is going to remain the same. So I think we kind of laid it to rest, we made our ruling and it's not going to change, so, you are hearing it from the Commission, I'm not imposing my will, but I think it is going to be the will of the Commission. So, if you come in with a thirty-three foot setback from the road, it's not going to be acceptable. That is what I'm hearing, from the Commissioners. That is the advice from the Town Planner, that we have to adhere to our standards, our regulations, so it's not trying to be against what you are trying to do. I hear what you are trying to do, you want to try to negotiate this, but these regulations aren't really negotiable.

Attorney Sullivan: I'm really not trying to negotiate....

Chairman Camilli: Okay, wrong word.

Attorney Sullivan: It's my interpretation of the regulations, it's our interpretation of the regulations, not a negotiation, we think it's a valid interpretation of the regulations.

Chairman Camilli: And you got ours.

Attorney Sullivan: We aren't trying to negotiate, I just want you to understand that.

Chairman Camilli: Okay.

Attorney Sullivan: So there is really no reason to address the site plan issue on the agenda tonight, because we haven't made any changes, so we can pass on that.

Chairman Camilli: Okay, now do we need a waiver on this?

Ed Meehan: No, just some procedural issues. The hearing started back on December 20th, so the next hearing is the 24th, and it has to be wrapped up on the 24th, unless you are granted an extension. So you are okay with your thirty-five days, and at the next hearing additional time is needed into the February meeting, then, we have up to sixty-five days in the bank that we can borrow from.

Attorney Sullivan: We would have no problem giving you the extension.

Ed Meehan: We're not at the extension point yet, we're still within the thirty-five days.

Attorney Sullivan: And it wouldn't expire until after the 24th, and whatever you need, orally or written, we will provide.

Chairman Camilli: Thank you very much.

Attorney Sullivan: Thank you.

C. PETITION 01-07 86 Clarendon Terrace, William D. Unghire owner and applicant, 86 Clarendon Terrace, request for Special Exception Section 3.2.4 radio antennas, R-12 Zone District.

William Unghire: Good evening gentlemen, Commission, my name is William Unghire, 86 Clarendon Terrace, I have two parts to the submission. One is to retrofit and replace an existing tower that I have had a permit for twenty years or so, I think it was 1984. The second part of the petition is to look at adding a second tower to my backyard. The towers are for ham radio purposes. As far as the way that I interpret 3.2.4, on the first page of the handout, I have the plot plan, which will allow me a 35 foot max tower, based on the fact that the property is seventy feet wide. The existing tower is marked and the proposed place for the second tower, and the associated antennas that will go on such structures.

Chairman Camilli: Why do you need two towers?

William Unghire: I'm in a position now where I want to experiment with various aspects of ham radio, one of which is satellite communications, which requires a set of antennas that capable of not only going horizontal, but vertical. They have to be set back and above any type of metal or structures, etc., so I could not put my low band antennas, the aggie type aluminum antennas underneath them, because safety issues would prevent it, number one, because I would have to go way, way above the top of the tower in order to make the antennas go vertical, depending on the path, etc., so the existing tower would be my satellite tower, if you will, and the new tower would be for my low band communications, my die poles, etc.

Chairman Camilli: Ed, as far as the type of tower this is, I don't really....

William Unghire: Okay, if we go through it, the page, VX tower, that is the existing style tower that I have now. It is a free standing, lattice type tower, that telescopes upward, from wider to

narrower. There will be four sections, thirty-two feet in height, in sections eight foot tall, which will replace the existing one because I have already have the base and everything else to just take the old one down and put the new one up.

Chairman Camilli: So are you saying that you are going to have, the old tower that is there now is going to be replaced as well?

William Unghire: Right, I have to physically replace the old tower, I've had it twenty years and it was up twenty years prior to that.

Chairman Camilli: Do these come down, you said they go up, like an extension.

William Unghire: The initial tower right now is a fixed height. There are four sections going up, there will be a thirty-two foot height, and then my antennas will be on a mast up above that.

Chairman Camilli: Can you go that high?

Ed Meehan: The maximum height is thirty-five feet.

William Unghire: For the structure, for the tower.

Ed Meehan: I think, I don't think that is how it was worded.

William Unghire: 3.2, it says satellite dish antennas should not be located....radio and TV antennas, provided that are located minimum distance from any property line at least equal to the height of the tower, so it specifically says tower in the way that I am interpreting it, which means that the tower can be thirty-five feet high, and then I believe in other parts of the regulations or structures, I'm going down based on the next section 3.2.5, saying that you can't exceed fifteen feet above that.

Chairman Camilli: So you are saying that there is a distinction between the tower and the antenna.

William Unghire: Right, between the top of the tower and the top maximum height, I'm interpreting, unless I'm wrong, would be no more than a maximum of fifteen feet because it would be applied like fifteen feet above any other building or anything else, for that matter.

Chairman Camilli: So if this thing were to drop, Ed, collapse, would it be from the top of the antenna?

Ed Meehan: I believe the interpretation has always been that if it is twenty feet to the property line, the tower and whatever is on it, cannot be more than twenty feet.

Chairman Camilli: Just in case there is a problem.

Ed Meehan: Yeah, and I'm trying to see where that fifteen feet comes up here.

Chairman Camilli: Do you know where that is?

William Unghire: Well, I'm just saying, from what little I was looking, here it is, 3.2.7, Section B, tower location.

Ed Meehan: That is for public wireless communication systems. That's for Nextel, Verizon, Cingular. That's for commercial carriers.

Chairman Camilli: So that's the wrong interpretation that he made.

Ed Meehan: In essence, that is for the big commercial carriers that instead of putting up a monopole, they can attached it to a roof of a building, or something, or blend it in with a structure.

Chairman Camilli: So for this, the maximum height is thirty-five feet, with the antenna, so you are talking a tower, so the applicant doesn't really have the right interpretation, or he interpreted it to his favor.

Ed Meehan: That is the way it was interpreted, I believe, back in '84.

William Unghire: No, the way that it was interpreted back in '84 was that the structure itself had to fall, physically being the tower. That antennas on top of that weren't counted. I mean, the FCC....

Ed Meehan: Well, let me tell you what happened. There was a citation issued because the tower was over....

William Unghire: That's correct. I had to take....

Ed Meehan: It went to fifty feet, for some reason, it was approved at thirty-two, and it turned out that they found out it was fifty feet, and the citation said, bring it down to thirty-two.

William Unghire: Which I did, at that point in time.

Ed Meehan: That I think was the interpretation there, that it had to be less than thirty-five.

Chairman Camilli: Why thirty two and not thirty-five?

William Unghire: Because the sections are eight foot in height, so I was below the thirty-five foot maximum structure.

Ed Meehan: But if you go with the interpretation that you are saying, you are going to build a tower of thirty-four feet, and put sixty feet of antennas on top.

William Unghire: No, no, no, no, that would be absolutely ridiculous. It would be a safety issue, I wouldn't want to put and jeopardize any of the equipment and antennas I would be putting up. For example, the two satellite antennas that I would be purchasing, circular polarized antenna, those antennas along are close to three hundred dollars apiece, the rotator assembly alone is almost five hundred dollars, so anything I would be doing would be in good engineering practices and would be, I'm not going to sit there and waste my money and have something come down.

Ed Meehan: Well, the way that this has been interpreted, as far as I know, is it has always been the maximum height of everything is equal to the distance to the property line. Not just the tower, it's the radio, and TV antennas on the tower too. I mean, why would you have a fall zone distance if what was on the tower was higher than the fall zone.

Chairman Camilli: Oh, I agree with you. It would change the whole fall zone. I don't know what that does....your interpretation now, if you put four sections of eight feet long, and then you are

putting an antenna on top of it, we don't want it to be getting to a zoning violation type of situation, and say, it was approved by the Planning and Zoning, but it would be to the height that would be to our interpretation, not yours. If it were to be approved, that is what it would be, and if you went above thirty-five feet, then you would be in violation, that's what I'm trying to say. I don't know if you want to buy fewer sections.....

William Unghire: Well, the whole thing is, there are minimum heights that I need, and the FCC does provide for what they call reasonable accommodations. I'm not asking for a sixty foot tower in the zone, I'm asking that the structures are reasonable height to facilitate my communications.

Chairman Camilli: I think you were here for the other application, you know, we are dictated by our regulations, so we can't, again, go above what we say we can go, and if it were to be approved, it would be approved to what our regulations say. I just want you to know that, so if you put up a thirty-two tower and then you go and put the antenna on top of it, you are going to be out of compliance, with out even getting there.

Commissioner Ganley: How tall is the antenna?

Chairman Camilli: It's about fifteen feet, isn't it?

William Unghire: No, no, no, no I was saying, I would be exceeding in order to do that.

Commissioner Ganley: The tower is thirty-two feet, attaching the antenna, how tall is the antenna?

William Unghire: The antenna itself it ten foot long, roughly.

Commissioner Ganley: How many side bar antennas are on the tower?

William Unghire: On that particular tower, I don't know if I would be side mount antennas or not.

Commissioner Ganley: You said you have dishes up there as well.

William Unghire: No, not dishes. They are, what I would be putting up is, as far as the satellite tower, the one that would be closest to the house, I would be putting the aggies that say MC, 2MCP14. They are in the book, and then the page after that. What it would end up being, is that it would look like a T. I would be coming off the tower, anywhere from three to five feet max, and then there would be a horizontal piece across to separate the antennas out. Now these two antennas, will be in a position, where if they are fully horizontal, they will be at that point, so if you want to say roughly you know, thirty-seven feet off the ground, and then what they will do is, when they track the satellite, they will sit there and pivot at that point. The antennas are ten feet long, roughly, give or take, so it would be five foot above that if they are pointing straight up, or horizontal, at that point. As far as the second proposed tower, it would be a telescoping tower, which unfortunately, nobody makes a telescoping tower thirty-five feet, but the second tower, I wouldn't need more than you know, a couple of feet of mast above that, because that would be holding the big low band antenna, which is just prior to those two pages, if you want to take a picture of it, see what it looks like.

Chairman Camilli: Well, I think we have to resolve that question, and you know, let me just say, I'm sure people in the neighborhood would have to be concerned, just in terms of aesthetics and so forth, and our job is, you know, it's allowed to some degree in the regulations, but we have to follow the regulations. I'm not sure about two antennas. These are special applications for sure,

and again, we're sort of a conundrum. I think what you have to do though, is resolve the height issue, for sure. To say you are going to do that, with those four sections, it's going to put you out of compliance, that remains a problem. Are both these antennas going to have these four foot eight sections in them?

William Unghire: No, the second tower would be a telescoping, crank up, crank over tower.

Chairman Camilli: And how high can that crank?

William Unghire: Well, the smallest one that I can get that would have the load safety requirements that I require, would be thirty-eight feet, which I would have no problem cranking it down and setting the maximum height at thirty-five.

Chairman Camilli: Well, the thought goes through my head, we do have a lot of enforcement issues in the town, and I think we would need the tower police to go after this one. It's an enforcement issue, I don't know how we would enforce something like that. Does any one else have any comments. I'm just not sure, you know, again, I'm in between what to do. Any comments from the Commissioners?

Commissioner Fox: I guess I'm a little confused too. I'm not a technician, but on the, what did you call it, the aggie, okay, now that has a boom, along with the boom, which would be strapped to the tower, in some way, normally, how high is that? The tower is going to be thirty-two feet, right?

William Unghire: Correct.

Commissioner Fox: And how high did you say, between that boom and the antenna?

William Unghire: The horizontal cross boom?

Commissioner Fox: Yeah, and the highest little staff that comes in. How high is that going to be?

William Unghire: I can make that anywhere from three to five feet. Off the top.

Commissioner Fox: You can. So, in other words, from thirty-two, you could go up three feet. But that would be all you could go up.

William Unghire: Correct. I'm talking about little pieces of wire, but the actual element sizes.....

Commissioner Fox: Well, that is what I am saying, how high can you work with.

William Unghire: Well, the physical elements on the two liter one is only, I believe, ten or twelve inches at the most.

Commissioner Fox: So that adds another foot.

William Unghire: Realistically, I could bring it down to where the top, when they are sitting horizontally which is probably the position that they will be in most of the time, I can have them under the thirty-five feet because I have room, underneath the tower, to be able, when they swing down, follow what I'm saying?

Commissioner Fox: I think. But it is conceivable that at times that would violate the height.....

William Unghire: Well yeah, because they would have to track the satellite.

Ed Meehan: Are you going to have an electric motor that moves.....

William Unghire: It's an ansmith and elevation rotor, which if you want a picture, it's on the last page, I believe. The unit actually breaks apart, so the top unit, which does the elevation part, would mount on the top, of the mast, and this bottom piece, that is below it, would be mounted inside of the tower.

Chairman Camilli: Any other questions from any of the Commissioners?

William Unghire: If I may say, as far as physically falling down, there are engineering standards of how to put the tower up, I will never come any where near the maximum wind loading or structural part that is going to require that the whole tower is going to physically fall down. It's not. As a matter of fact, for the second tower, if you want to look at the engineering, I have the certified engineering print of how the base of the tower would have to be, certified P.E. Base for the second new tower would be five square feet, four foot by four foot on the top and then I believe it's five or six feet deep is going to be the case.

Chairman Camilli: What have you done to give any type of screening to this?

William Unghire: Well, as far as the house and everything else, I mean, looking from the street, very minimal above the height of the house because the house is graded up, up on the grade.

Chairman Camilli: So are you saying that the neighbors can't see this?

William Unghire: They can see the antennas at the top of the tower, yes. The ones on the second tower, I don't know if they would see it from the street or not. I would have to physically look at angles.

Chairman Camilli: Well, we are also concerned with the aesthetics of that, what that does to the neighborhood. Did you get a location of where these are going to be put up?

Ed Meehan: Yes, it's, the replacement is right up next to the house...

Chairman Camilli: Yeah, I know that there is one right next to the house....

Ed Meehan: And then the other one is mid-point, the new one, the crank up one that he is talking about, is almost dead center in the back yard.

Chairman Camilli: The backyard, now are there neighbors all around there?

Ed Meehan: Well, there are neighbors to the north and south, the back is the Emanuel Baptist School yard, it's a baseball field or something.

Chairman Camilli: So it would be the neighbors to the north and south.

Ed Meehan: North, south, and maybe across the street, looking out. The house, as the gentleman said, Clarendon Terrace on that side goes uphill a little bit. This one in the middle of the yard, is that the one that looks like it is attached to the shed?

William Unghire: No, that wouldn't be attached to the shed.

Ed Meehan: Is there one there now attached to the shed?

William Unghire: I have a metal pipe with a vertical antenna on it, at this point in time.

Ed Meehan: Is that attached to the shed?

William Unghire: Yes, side mount clamps.

Ed Meehan: That's coming down?

William Unghire: Yeah, that will be coming down once I replace, put the aggies up and everything else, the low band.

Ed Meehan: How about the miscellaneous wires that....

William Unghire: I'll be putting up the die pole, the die pole looks like is just after the tower, it's the, it's what I have up there now. It's a wire die pole for getting down to the low frequencies.

Ed Meehan: That is on page what?

William Unghire: It says, page 1 of 1, it's just after the towers, a printout of the pad and everything. It's right before the other antennas.

Chairman Camilli: When this comes down, it's a crank up tower, right, you said?

William Unghire: The second one would be a crank up and when cranked down I can tilt it over, as I'm getting up in age, I don't want to constantly be climbing all the way up and down, so I mean, this is not going to be an inexpensive project.

Chairman Camilli: Oh, I know, but again, just looking at how this impacts the neighborhood, when it's down, how high will it be when it's down?

William Inghire: The new one?

Chairman Camilli: Yeah.

William Inghire: If I remember correctly, I believe it's about 21foot 6 inches.

Chairman Camilli: When it's down?

William Inghire: When it is fully cranked down, yes.

Chairman Camilli: So it's still 21 feet high, so it could crank up 17. Any questions, as I said, I'm concerned about two towers, I'm concerned about aesthetics, concerned about the safety, going above the regulation limit of 35 feet. I mean, these are, and I'm just verbalizing....

William Inghire: I understand. I'm willing to compromise on whatever I have to do, it's just as I said, I'm at a point in my life where I can financially afford to do what I want to do, and it's not an inexpensive hobby.

Chairman Camilli: No, I know that.

William Inghire: This project alone is probably going to cost me just over \$10,000.00, between radios and antennas. For example, you're worried about things coming down. My big yagie, the base price, without any extras for it is going to be seventeen hundred dollars. So whatever I put up, I mean, I will assure the board, the tower is not coming down, and the antennas, shy of a big humungous 120 mile per hour hurricane, all the antennas are designed to design one hundred per mile hour winds, or greater.

Chairman Camilli: Ed, do you have any other comments?

Ed Meehan: No, it's just that height interpretation which you have rendered.

Chairman Camilli: Well, we are going to stick with the 35 feet, I think we are going to stick with that 35 feet, so if it does get approved, that is where it will be, just so, because that is what the regulations say. Anyone else have any comments? Okay, are you basically done?

William Inghire: Unless you have questions.

Chairman Camilli: No, I want to hear from the public. I think a couple of people from the public might be here. Anyone from the public wishing to speak for this application? Anyone wishing to speak against this application.

Herb Hankin: I happen to be an engineer at Channel 3 in Hartford, Connecticut. He is a very good neighbor of mind, we've been very close, we've lived next door for forty years. As you said, aesthetically, it looks like the AARL in my backyard. I have grandchildren that come over, I have six to be exact, I'm worried about their safety. Right now he's got, what, three towers up there?

William Unghire: There's only one tower up there.

Herb Hankin: What about the rusty one?

William Unghire: That's the one tower.

Chairman Camilli: Okay, you can talk to me.

Herb Hankin: He's got guy wires coming down to a chain link fence adjoining our property. I don't know how safe that is. This is a chain link fence. Now, who is going to put up these towers? Is he a qualified engineer to put it up? Is he going to have somebody put it up? I don't think that is his expertise, as far as putting up towers. That's my personal opinion. Aesthetically, like a say, it looks like the AARL, he's got, you drive up the street and you see all of this.

Chairman Camilli: There was some town action taken though, wasn't there, at some point?

Ed Meehan: The applicant was cited in November for not getting permits for the tower, or the whatever he has attached to the shed that I asked him about, and the Zoning Enforcement Officer went over and met with him, directed him to come in and get the correct applications, went back through the file and determined there was something approved back in '84, then Mr. Unghire decided that he was going to replace and upgrade, so that is why he is here tonight.

Chairman Camilli: I didn't know what you knew, so some of this.....

Herb Hankin: I have nothing against what he has out there now, I just don't want the thing, as I say, look like the American Radio Relay League. It's, you drive up the street, and you see these towers up in the air, plus the safety, the aesthetics, the property value. Properties have gone

down recently as it is, I just had a lot of work done on my patio, you know, and my house is pretty valuable to me, I've lived in Newington for over forty years, same place. Nice neighborhood, the homes are very close to one another.

Chairman Camilli: So tell me what you are saying. Tell me what you are saying in terms of, what would you like to see then? Not erecting any towers.....

Herb Hankin: If he is going to replace what he has, I don't have any problem. My problem is the safety, the height of it, the aesthetics of what it looks like in the neighborhood, the declining property value. If I went to sell my house, and somebody looked, came up and saw this, and my house really looks good because we have kept it in top notch shape, they are not going to want to move next door to this, like they won't want to move next door to the American Radio Relay League. Why would they want that? I've had filters put on my phone because of static. Phone company came in a number of years ago and put all of this on. I just value my home, property, the neighborhood, I have spoken to some of my neighbors, you know, they are not willing to step up like I am, and I live next door.

Chairman Camilli: Okay, I hear you, I just want to know what.....

Herb Hankin: I mean, he's been a good neighbor, I have nothing against him, personally, this is strictly business, I like Billy like I like my own son, but you know, it's.....I mean, this tower that is up there now next to his house, I don't know how he can live there, not knowing if this rusty thing is going to fall on his house, let alone my house. If you came out and looked at it, you would say, it's going to hit my house if it comes down. There are a lot of TV towers in the industry that come down, and they have professionals put them up.

Chairman Camilli: Well, maybe he can answer that question, who is going to put it up. Are you objecting to two towers.

Herb Hankin: I'm not objecting to what he has there now, as long as it's within limit. I don't know what the limit, I won't climb up thirty feet, or thirty-five feet. That is up to you people to decide. That isn't my decision as far as the height, or where it is going to fall on my property.

Ed Meehan: Well, it shouldn't fall on your property, if he is following regulations.

Herb Hankin: Our houses are close together.

Chairman Camilli: Well, that is why we have that height limitation, so if it did fall, it wouldn't fall

Herb Hankin: Like I say, not only the house, but if it falls across in my yard, I have grandchildren that come over. I guess you might have some grandchildren of your own.

Chairman Camilli: Okay, thank you for your input. If you want, you can come up and perhaps answer that question, who's going to erect the towers, at least we can resolve that question.

William Unghire: As far as erecting the towers, that I am perfectly capable of doing because I have done, not only mine, but I've helped numerous friends install towers. As far as what Mr. Hankin is saying about what he is thinking is a guy wire, it's not a guy wire, it's my low band antenna, which is the wire antenna that I showed you, and just to tell you exactly what it is made out of, remember the time when people had TV antennas, and you had the rotor box, you know that flat, three wire cable, that's what the antenna is made out of. As far as where it is ten feet off

the ground, you know, that is a temporary setup, but eventually it's going to have to be up at that height, that's the safety issue. That is so that nobody can touch the antenna and nobody is near the antenna. I have to fold it back in, inside the property, because it is 140 feet long, overall. I have plans to sit there, and put up, whether it's PVC, or whatever, ten or fifteen feet high, nestled, tucked in, so that way, there is no chance of anybody touching or being near the wire. Safety is my number one concern, I mean, I'm not going to go and spend three thousand, four thousand dollars on a tower and have it come down. I'd be the last person wanting it to fall on my house. Everything will be done with good sound engineering practices.

Chairman Camilli: Does the town, Ed, monitor that, the construction of these?

Ed Meehan: He's going to have to get building permits, and certify this information, or have his engineer certify it, as far as wind load, to the building.

William Unghire: Yeah, that's not a problem because.....

Ed Meehan: You're not an engineer are you?

William Unghire: No, but I have all the engineering documents from the tower manufacturer as to what the ratings are, and specifications.

Ed Meehan: They may want this base to be certified, you know, the depth, all that.

William Unghire: As far as the base, I don't know if I'm physically capable of, going to be digging it or not. I may just hire a contractor to install the base. Whether I install it, and do the rebar or have, I have a cousin in the construction industry, to help me do the rebar that is required, everything will be done to what the engineering drawings state.

Ed Meehan: The building department would have to be called out to inspect it, during the different stages, you know, before it is backfilled, they would have to see.....

William Unghire: Well, actually, the way that they really want it, stated, it's, you don't dig around, you dig straight down, they want solid earth around the entire base.

Chairman Camilli: Are we going to get anything more on this?

Ed Meehan: No, I don't think that you are, I think the point has been made about the height, the question that I have, because I went by a couple of times, and now you have mentioned some PVC pipe, you've got the tower, the lattice tower, you've got some horizontal equipment on it, that goes up and down with an electronic motor, and then you have a second tower in the middle of the yard that can telescope up and down, and then you mentioned some other low band wires?

William Unghire: Yeah, the wire is an antenna, and that is for me getting down on the lower frequencies.

Ed Meehan: That is coming off of one of those two towers?

William Unghire: It will be down below the horizontal yaggie, yes.

Ed Meehan: Which is the replacement tower?

William Unghire: No, the new tower. I can do it from either, I would prefer to do it from the new tower.

Ed Meehan: Would that still be attached to the fence?

William Unghire: It wouldn't be to the fence, that is what I'm saying. I want to put a permanent type pole, whether it is PVC, preferably for insulation,

Ed Meehan: So these poles would be in your yard someplace?

William Unghire: Right, there would be four of them, because I would have to come over to keep everything airily within my property. This is being done by hams all over the world. Other towns, I believe Farmington has a maximum height, doesn't even depend on the property, of 45 feet, or 48 feet or something like that. There are other towns that are very open to hams. I mean, I won't even go into the public acts, you know, the public aspect of it. I'm a member of (inaudible) which is affiliated with the town as far as you know, the Amateur Emergency Communications and stuff, for the Memorial Day parades and everything else, of which I am an active member.

Chairman Camilli: Any questions from the Commissioners?

Commissioner Fox: When the motion is written, you know, certain standards can be written into it, inspecting the strength of the concrete pad and guy wires and everything, to ensure the safety.

William Unghire: There are no guy wires.

Chairman Camilli: It says radio antennas on this thing, so you're in effect requesting two antennas.

William Unghire: I'm requesting two towers, one to replace an existing one, and the second one to facilitate communications.

Chairman Camilli: I thought you said there was one....

Ed Meehan: There are two there now.

William Unghire: I don't have two towers.

Ed Meehan: What do you have attached to the out building?

William Unghire: That is a vertical antenna that is on a pole.

Ed Meehan: Okay, you have a tower and an antenna. Whatever was attached to the outbuilding was what got the citation you got.

William Unghire: I was under the interpretation that the citation was the antennas that I side mounted to the tower.

Ed Meehan: Well, it could have been that too, and then you attached to the fence.

William Unghire: As I said, I'm very open, Herb has been a good neighbor....

Chairman Camilli: So, in effect, there is something there in the middle of the yard, now?

Ed Meehan: Yeah, it's attached to the garden shed.

Chairman Camilli: It's attached to the shed or fence or something with this wire, so what is going to happen here is that he is going to put in town towers, replace the old one, put another one in the center, this is what he is requesting, and from the rest that I can gather, he is going to have some poles in the yard,

Ed Meehan: Four PVC with low band.

Chairman Camilli: What is that all going to look like?

William Unghire: It will be black PVC, so that way, aesthetically, it's not standing out, plus it has to be UV, so that it won't break down, so that is the black one.

Ed Meehan: And whatever you have, antenna, otherwise attached to the shed is going to come off.

William Unghire: Yes, I won't need the vertical at that point, no. I mean, primarily I'm looking at four antennas, the type of antennas, the type of antennas are, three of them are aluminum and one of them is a wire.

Chairman Camilli: Four antennas, you are going to have a tower, and you are going to have two antennas on one?

William Unghire: It will come up, think of it as a T, okay, so those are two antennas. See, I think there is a definition of what is an antenna and what is a tower. The physical structure is a tower, that's what I call a tower, antennas are the means by which I communicate with, the tower does not radiate, and the tower is not an antenna itself, physically. Two are going on the old one, two are going on the new one, as far as physical antennas, and then I may side mount, off of one or the other, a vertical antenna, but that will be below the maximum, it will never even come close to being up at full height.

Chairman Camilli: Well, okay, it doesn't appear, you know, as I said, we were also concerned with the neighborhood, and you know, what you may do may just make it more unacceptable to your neighbors.

William Unghire: Realistically, I believe the second tower won't even be seen from the street.

Chairman Camilli: Not from the street, but how about from the neighbor's yards.

William Unghire: It would affect Mr. Hankin and my other next door neighbor. They would see it from their backyards.

Chairman Camilli: Okay, I think we got the picture. We will close Petition 01-07.

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

None.

IV. MINUTES

Special Annual Meeting – 12/20/06

Commissioner Cariseo moved to accept the minutes of the Special Annual Meeting of December 20, 2006. The motion was seconded by Commissioner Ganley. The vote was unanimously in favor of the motion, with five voting YES.

Special Regular Meeting – 12/20/06

Commissioner Cariseo moved to accept the minutes of the Special Regular Meeting of December 20, 2006. The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with five voting YES.

V. COMMUNICATIONS AND REPORTS

- A. 8-24 Referral Report – Hollow Tree Lane Street Acceptance.
- B. 8-24 Referral Report Commerce Court Street Acceptance.

Ed Meehan: Just quickly, there is a brief staff report on the table. Both these streets that are proposed for acceptance, petitions have been submitted, have been around since the early 2000, when the subdivision was approved originally for two developers who never did any construction, Brian Johnson and Dennis Angyl, got the Fenn Manufacturing site re-subdivided and approved, and then around 2001 they sold it to Delta Building who subdivided the lots and built it. Finally they are ready for acceptance, there is a recommendation from the staff that there be some conditions on that acceptance, and that advisory report to submitted to the town council, such as defects, and as built plans and warranty deeds, typical items that you look for when you accept a road for public use. There are two suggested motions in the packet.

Chairman Camilli: Then we will take that when the motions come up. Any questions on that?

VI. NEW BUSINESS

- A. **PETITION 75-06 Assessor's Map SE 307, 1987 and 2169 known as 119 Deming Street, Frank A. Accarpio and Thomas Accarpio owners, Deming Street Development, LLC, 312 Murphy Road, Hartford, CT 06114 request for Site Plan approval Section 5.3 (23 detached residential units,) PD Zone District. Inland Wetlands Report required. represented by Attorney Timothy Sullivan, 9 High Road, Berlin, CT 06037,**

Chairman Camilli: Petition 75-06, they requested to hold off.

- B. **PETITION 02-07 45 Costello Road known as former Acorn Rental, Bulley I, LLC owner, PDS Engineering, 107 Old Windsor Road, Bloomfield, CT 06002, attention Timothy Mulcahy applicant, request for site plan modification to construct additional parking and storm drainage, PD Zone District.**

Timothy Mulcahy: I'll make it very short and very brief. This was a prior approved plan, the only thing that the applicant is asking for is some additional parking. We looked at the drainage, and

what was priorly approved, and what is proposed today, this is actually a decrease for the sheet flow, so it is actually a positive for this project, with a catch basin and the parking too, so that is thing that I wanted to bring up to you tonight, and also, I really haven't got any formal staff comments, but I did talk to Mr. Meehan earlier today and he asked for a couple of things, concrete curbing, the other one being that the detention basin can be maintained without any real physical disability, and also a couple of shrubs and bushes just to make some aesthetics, and we really have no problem with doing that.

Chairman Camilli: Okay, so it would be (inaudible), we are concerned about the aesthetics on the turnpike. Okay, I don't have any, it's rather straight forward. Anybody have any questions? Sorry you had to wait so long for that. You are all set.

VII. OLD BUSINESS

A. PETITION 70-06 57 Church Street, John A. Amaning applicant and owner, c/o Attorney Vincent F. Sabatini, 1 Market Square, Newington, CT 06111 request for Special Exception Section 6.7 Interior Lot R-20 Zone District. Sixty Five day decision period ends February 23, 2007.

Commissioner Cariseo moved that Petition 70-06 – 57 Church Street, John A. Amaning applicant and owner, c/o Attorney Vincent F. Sabatini, 1 Market Square, Newington, CT 06111 request for Special Exception Section 6.7 Interior Lot R-20 Zone District be denied the Commission finding that the applicant has not satisfactorily demonstrated that the property has any unusual characteristics, topography or that the area's subdivision pattern justify its division to create an interior building lot.

It is the Commission's opinion that the applicant has not shown there is a need for this Special Exception, (Section 5.2.6A) or that the increased development of the property will be compatible with the existing and probable future character of the neighborhood (Section 5.2.6B).

Further, the Commission notes that the property has an existing accessory out building and remains of a prior accessory building foundation that must be removed to comply with Section 6.7 standards. This indicates to the Commission that this property has been and should continue to be used for one (1) single family home.

The motion was seconded by Commissioner Fox.

Chairman Camilli: The only comment that I want to make is the way that that configures, even though it meets all of the side yard regulations, the way that the neighborhood has configured around this particular piece of property, to me would be an infringement on their, what's the word I want to use, on their ability to maintain the character of what is was prior to the building of this lot. I think it does them some harm by going into their space, it's a special situation there with the outbuildings and so forth, I really think it (inaudible.)

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

Chairman Camilli: Motion passes unanimously.

- B. PETITION 76-06 647 North Mountain Road, Knights of Columbus owner, Bochasanwasi Shree Akshar, Purushottam Swaminarayas Sanstha – Northeast applicant, represented by Vasant Patel, 58 Barry Place, Rocky Hill, CT 06067, request for Special Exception Section 3.2.1 Places of Worship, I Industrial District. Public hearing closed December 20, 2006. Sixty five day decision period ends February 23, 2007.**

Commissioner Fox moved that Petition 76-06 647 North Mountain Road, Knights of Columbus owner, Bochasanwasi Shree Akshar, Purushottam Swaminarayas Sanstha – Northeast applicant, represented by Vasant Patel, 58 Barry Place, Rocky Hill, CT 06067, request for Special Exception Section 3.2.1 Places of Worship, I Industrial District be approved the Commission finding that the proposed use is compatible with the area and will have adequate on-site parking for the organizations membership.

The Site's parking spaces, directional arrows and handicapped spaces should be repainted. Broken pavement and crack sealing of damaged pavement completed to insure safety of the parking lot.

This Special Exception is not transferable.

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

Chairman Camilli: Motion passes unanimously.

- C. PETITION 77-06 Stefan Jarosz and Eugenia Jarosz applicants, Howard and Helene Cashman, 33 Pfister Drive, Newington, CT 06111 owners, request for Special Exception Section 6.13 Accessory Apartment (renewal) represented by Stefan Jarosz, 352 Highland Street, Wethersfield, CT 06109, R-12 Zone District. Public Hearing closed December 20, 2006. Sixty five day decision period ends February 23, 2007.**

Commissioner Schatz moved that Petition 77-06 Stefan Jarosz and Eugenia Jarosz applicants, Howard and Helene Cashman, 33 Pfister Drive, Newington, CT 06111 owners, request for Special Exception Section 6.13 Accessory Apartment (renewal) represented by Stefan Jarosz, 352 Highland Street, Wethersfield, CT 06109, R-12 Zone District be approved the Commission finding that this is a renewal of a prior Special Exception, Petition 68-98, granted November 23, 1998, and the applicants have submitted documentation that they will reside at this residence.

The motion was seconded by Commissioner Fox. The vote was in favor of the motion, with four voting YES and one abstention (Ganley.)

8-24 Referral Report **Commerce Court Acceptance**

Commissioner Ganley moved that the Commission report to the Town Council its recommendation to accept Commerce Court as a Town street upon the completion of the following:

1. Corrections of any defects as determined by the Town Engineer.
2. Submission of "as built" street plan and profile and certification of merestone placement.
3. Warranty deed for roadway extension and drainage easement if applicable.

4. Release of the JMR Investors, Inc. performance bond by the TPZ and the posting of a maintenance bond, amount to be determined by Town Manager, for one (1) year from date of acceptance.

The motion was seconded by Commission Cariseo. The vote was unanimously in favor of the motion, with five voting YES.

Chairman Camilli: Motion passes unanimously.

8-24 Referral Report
Hollow Tree Lane Acceptance

Commissioner Cariseo moved that the Commission report to the Town Council its recommendation to accept Hollow Tree Lane upon the completion of the following:

1. Corrections of any defects as determined by the Town Engineer.
2. Submission of "as built" street plan and profile and certification of merestone placement,
3. Warranty deed for roadway extension and drainage easement if applicable.
4. Release of the JMR Investors, Inc. performance bond by the TPZ and posting of a maintenance bond, amount to be determined by Town Manager, for one (1) year from date of acceptance.

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

Chairman Camilli: Motion passes unanimously.

Bond Release
133 Louis Street
Gold Star Medical

Commissioner Fox moved that the remaining bond balance of \$7800 be released the Town Engineer has inspected the site improvements and reports that all work is satisfactorily completed.

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

Chairman Camilli: Motion passes unanimously.

VIII. PETITIONS FOR SCHEDULING (TPZ January 24, 2007 and February 14, 2007.)

- A. Petition 78-06 751 Russell Road and corner of East Cedar Street, known as Lower Manufacturing, Cedar Mountain, LLC owner, Hunter Development Company, LLC, P.O. Box 366 East Longmeadow, MA 01028 applicant, represented by Attorney Michael A. Zizka, Murtha-Cullina, LLP, 125 Asylum Street, Hartford, CT 06103-3469, request for Site Plan approval Section 5.3 gas station use and convenience store, I Zone District. Inland Wetlands Agency Report required. Sixty five day decision period ends February 16, 2007.
- B. Petition 03-07 262 Brockett Street, John G. Formateo, 798 Southington Road, Kensington, CT 06037, owner and applicant, represented by Alan Bongiovanni,

BGI Land surveyors, 170 Pane Road, Newington, CT 06111 request for Zone Map Amendment, R-12 District to B-BT District, Schedule for public hearing February 14, 2007.

- C. Petition 04-07 262 Brockett Street, John G. Formateo, 798 Southington Road, Kensington, CT 06037, owner and applicant, represented by Alan Bongiovanni, BGI Land surveyors, 170 Pane Road, Newington, CT 06111 request for Site Plan approval Section 5.3 to construct a 7,275 sq. ft. business Office building, B-BT District (requested) Schedule for presentation February 14, 2007.
- D. Petition 05-07 42 Maple Hill Avenue, Antonio Pinho and Jose Pinho owners and applicants, represented by Antonio Pinho, 52 Wolf Piet Road, Farmington, CT 06032 request for Special Exception Section 6.7 Interior Lot, R-12 District. Schedule for public hearing February 14, 2007.
- E. Petition 06-07 2207 Berlin Turnpike, Summit Motel, Neel, LLC owner Kayshik Patel, applicant, 2207 Berlin Turnpike, Newington, CT 06111 request for Special Exception Section 6.2.4 pylon sign. Schedule for public hearing January 24, 2007.

Chairman Camilli: We're up to Petitions for Scheduling. The first one there is Lowe Manufacturing, for site plan approval for a gas station, I'm going to have Mr. Meehan make some comments, but we are going to keep this as generic as possible as this point, but we do have a ruling from the town attorney.

Ed Meehan: Yes, we asked Steve Nassau's office how this should be scheduled and the advice is to schedule as the applicant has filed it, which is a site plan in the industrial zone. When it was received, the application had a wetlands component, it was filed back on November 22nd, and the date of receipt would have been December 13th. That meeting was cancelled and you had a special meeting on December 20th, so actually, we always go by the regularly scheduled meeting so the sixty-five days for this site plan started to toll on the 13th of December, so you have until February 16th, to hear the site plan presentation, so I would recommend you schedule it for the next meeting, or the first meeting in February. Not sure what the applicant is going to do with the Conservation Commission, based on the plans that were submitted yesterday, revising the plans, they may be withdrawing their application from Conservation, and look at this from a Wetlands point of view. You have to process this as a site plan, as filed, and your discussion around that would occur the night of the presentation.

Chairman Camilli: Okay, so we will schedule that for our next meeting.

Ed Meehan: The 24th?

Chairman Camilli: Yes. Petitions 03-07 and 04-07.....

Ed Meehan: Those are companion petitions, one is for a zone change on Brockett Street, and accompanying that is a proposed site plan for development of a professional office building. You have sixty-five days by law to schedule those, that's why they were put out to February.

Chairman Camilli: Okay. 05-07.....

Ed Meehan: That's another interior lot.

Chairman Camilli: Maple Hill Avenue, where is that, 42?

Ed Meehan: I think two or three houses from the corner of Maple Hill and Cedar, going south, on the east side. Almost across from the new houses that were just built.

Commissioner Fox: Is that the house, or next to the house, that, there is a house in front, and then the old burnt barn in the back?

Commissioner Schatz: I think that's next door.

Chairman Camilli: Okay, and the last petition?

Ed Meehan: It's to replace a pylon sign and the reason that I suggested the 24th is this, apparently a new sign was put up there recently, to replace an existing one, it was struck by a vehicle, so the applicant, the property owner asked if we could move it up to get his sign back up. That is why I suggested it for the 24th.

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

None.

X. REMARKS BY COMMISSIONERS

None.

XI. STAFF REPORT

Ed Meehan: I'll be real brief, because it is late, I just want to bring you up to date on some zoning enforcement issues. We have been going say, head to head with the property owner at 174 Francis Avenue, American Muscle, the car storage location. The property owner was issued, to this point, three citation notices. The first two were not responded to, the third one, the zoning enforcement officer received a request for an appeal hearing today. Also in conjunction with the town attorney's office we've issued a cease and desist. Mr. Hanke the ZEO, had a meeting with Mr. Kriedel today, and the town manager. I was unable to attend and Mr. Kriedel was pleading to have at least two weeks to come into compliance, through January 21st. That was, I would say reluctantly agreed to by Mr. Hanke, because we have been burnt on this before. We are not willing to ignore the first two citations. Mr. Kriedel did acknowledge today, to the Town Manager that he is in violation, but he needs a couple of more days to get it straightened out. So we are not willing to release the cease and desist or the citation, and our strategy would be to inspect the property on the 21st, and if it's not in compliance, then he will have three citations, and a cease and desist.

Chairman Camilli: I would strongly suggest, I know that you said it to me, that Mr. Kriedel would not let our inspectors.....

Ed Meehan: Couldn't get past the fence.

Chairman Camilli: Couldn't get past the fence, so that part of that negotiation in my opinion, should be that we are allowed to do that, are we going to be allowed.....

Ed Meehan: Yeah, on the 21st, we have to have access, full access to the property, to walk it.

Chairman Camilli: There may be wetlands, I'm concerned about the whole, there could be a lot of issues there, more than just the cars.

Ed Meehan: The last time the hearing officer actually adjourned the meeting at this office for the hearing, and we went up, Russ Correll was the hearing officer, we walked the site, and he finished the hearing up there, and made the ruling that the site was in violation. If it takes that, we will do it again. There is no reason, again, in my opinion and the zoning enforcement officer's opinion, why these vehicles cannot be moved more expeditiously. There is no snow on the ground. Last time there were issues of snow, and things being plowed in, but with the winter that we have had, just a matter of over supply of vehicles. So, at the wishes of the town manager, willing to work with him, two weeks I think is enough to get this place cleaned out.

Chairman Camilli: He's not doing any selling of parts from there? You don't know, you can't get on the property.

Ed Meehan: Well, he could be parting the vehicles and selling off parts, we're not sure, there could be something like that going on.

Chairman Camilli: If you go into negotiations again with this fellow, I think we should have some written thing that we are allowed to go on that property if we wish. If we are going to give him a break, he ought to give the town a break, in my opinion. He wants to hardball us about letting anybody on, we probably should hardball him back.

Ed Meehan: Well, it's clearly visible just from the fence that, and then the other issue on the other side is the issue of public safety and access by fire equipment.

Chairman Camilli: If there was a fire, with all that...

Ed Meehan: You're not going to be able to get in past the front gate, under the current conditions, so that is a concern because that is all wood structures. There is one concrete building in the back corner, the rest is all, as you remember Cashway, all wood structures. That is where we stand with that.

Chairman Camilli: Anything with JDC? It seems to get messier and messier.

Ed Meehan: The Zoning Officer was going to go over. As you saw, the last couple of days they have piles of sand or something that they are mixing out front, they seem to be taking advantage, or trying to take advantage of the Commission's approval of the Aldi site plan.

XII. ADJOURNMENT

Commissioner Cariseo moved to adjourn the meeting. The motion was seconded by Commissioner Fox. The meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary