

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

July 11, 2007

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

I. ROLL CALL

Commissioners Present

Commissioner Camilli
Commissioner Cariseo
Commissioner Fox
Commissioner Ganley
Commissioner Kornichuk
Commissioner Schatz
Commissioner Ancona

Commissioners Absent

Commissioner Pruett
Commissioner Andersen

Staff Present

Ed Meehan, Town Planner

Commissioner Ancona was seated for Commissioner Pruett.

II. PUBLIC HEARINGS

- A. **PETITION 21-07 – 179 Meadow Street, Faye H. Karanian, owner and applicant, request for Special Exception Section 6.7.2 Interior Lot, R-12 District. Continued from June 27, 2007. Extension granted.**

Attorney Karanian: For the record, Attorney Charles Karanian, representing Faye Karanian on the application and I know that there were some questions from the last meeting. I have a new map showing the actual place where the exit and entrance would be, in conformity with the rules and regulations as far as the special exception we are asking for. Basically what it is, she owns the fee simple to the property in question whether it be the so-called Bridle Path, and that of course is subject to, the fee simple is subject to the right for people to use it, for passing and re-passing. It can not be blocked. As you can see from where the location of the driveway would be, it's just like a city, a city street with sidewalks, the sidewalk of course can't be blocked but it's certainly going over a right of way for passage as far as walking on the sidewalk.

Ed Meehan: Could you put the map up?

Attorney Karanian: To alleviate the concern that was expressed at the last meeting, the driveway entrance would be right here which is not on the Bridle Path itself, to the left, it should not be blocked. That conforms as far as the regulations go, and she owns all of this, right along here. The Bridle Path would not be blocked, the concern of the bridle path being available, it's going to be available, it's been right along, there's no change there, so the exit area, and entrance area

would be to the right. If you were looking north, it would be on the east side of the bridle path. This is not just for access and entrance, so it's not being blocked from use. So, just like a sidewalk, like anything else, people walk across sidewalks or driveways. So the bridle path here to Orchard Avenue will be open.

Chairman Camilli: Ed, do you want to make any comments?

Ed Meehan: Well, just quickly, to recap, the Commission had a prior map that goes back to when the public hearing started, a couple meetings back, and the conveyance that was shown on that map to the abutting property owner, I believe was twenty-one feet. This is down to five feet.

Attorney Karanian: That's what it would be if we were doing it.

Ed Meehan: Now is that, is there an agreement with the property owner, I think either you or Mrs. Karanian said at one of the public hearings that, that was already set.

Attorney Karanian: No, no, no its not, nothing is set, because we were in court on that, and of course, they were the ones that are using it here, and we told them that they shouldn't use it.

Ed Meehan: Using it where, on the Karanian property?

Attorney Karanian: Right here, they have been parking cars there from this property right over here, and blocking the path.

Ed Meehan: So there are no problems from reducing it from twenty-one feet to five feet?

Attorney Karanian: No, not as far as we are concerned, no, as far as the property owner is concerned.

Ed Meehan: When is this legal issue going to be resolved, between the parties in this?

Attorney Karanian: Well, they are seeking to be able to park on there, we are not conceding that to them, they would have to deal with the board or anybody else for the good of the land, if they are permitted to do so.

Ed Meehan: But does this agreement that has been reached between the property owners have to be ratified by the court?

Attorney Karanian: No.

Ed Meehan: So it's not going back to court?

Attorney Karanian: Well, it will go back probably, but I mean, the question is, we can't give them the right to park there, so.....

Ed Meehan: No, I'm talking about the sale of the land, no future court dates schedule for any of this?

Attorney Karanian: No, not at the moment. However, as I said, we were going to sell the land to them, but we are not going to sell them the right to park there. That is something that they have to take care of if they want to go before anybody and ask for permission to do it, that's up to them.

Ed Meehan: East to west fifteen foot strip of land, that doesn't say, I don't know if your land surveyor missed it, that is also encumbered by the easement.

Attorney Karanian: That's going across this way.

Ed Meehan: There and the fifteen foot strip that goes to the far east side of the lot. That should also be labeled bridle path easement, correct?

Attorney Karanian: From here for example, the bridle path comes across here, this is all blocked off.....

Ed Meehan: I don't think it goes across there on the record map....

Attorney Karanian: But it's all blocked off, you can't go through the bridle path there.

Ed Meehan: The north/south there's a note that says bridle path, right where your finger is. Now, why isn't the same note on the bridle path going west to east?

Attorney Karanian: West to east?

Ed Meehan: Yeah, why isn't the same easement note on that location?

Attorney Karanian: Why doesn't it show it?

Ed Meehan: Yeah, why doesn't it show?

Attorney Karanian: Because it came down this way, it didn't go around, because the property is around here.

Ed Meehan: Okay, why isn't it labeled as the bridle path easement?

Attorney Karanian: None of it's labeled bridle path easement, it just shows it where it is.

Ed Meehan: There is a note up there, says bridle path, right there, little bit lower, right there.

Attorney Karanian: But down here, to the right of this property, I'm just saying where it is.

Ed Meehan: I think it should be added to the map to be correct, there is an easement of record.

Attorney Karanian: I have no problem with that, I mean, I'm just saying exactly where it is here.

Ed Meehan: The only reason that I bring it up is that easement of record based on what the Planning Commission approved in 1974, did not anticipate vehicles crossing over that easement.

Attorney Karanian: Not this way, not east and west, northerly would cross north and south over this particular entrance from Spur Lane.

Ed Meehan: The reference in the minutes was that vehicles were not to cross over the bridle path, or to use the bridle path.

Attorney Karanian: Yes, the portion just fifteen feet east of the bridle path, I mean the one that goes north and south.

Ed Meehan: What about the bridle path that goes east and west, I mean they are all connected. I'm talking about on the radius of the cul-de-sac.

Attorney Karanian: They still have the right to pass and re-pass there, they aren't limiting them.

Ed Meehan: I'm not talking about you, I'm talking about the record of the minutes in '74 that said that vehicles were not supposed to go over that. In other words, a driveway was not supposed to be, that's what I am talking about.

Attorney Karanian: Well, she owns, in fee simple, she's not blocking off the use of the bridle path, all it is, is access to Spur Lane, to get out, not for coverage, in other words, staying, any vehicles staying on there, they would just be able to get to her lot. This has been discussed in court, you can't block somebody from going across the path, even if there is an easement to pass and re-pass, and that is all the easement is. The bridle path is an easement on the property for purposes of traversing it, by foot path.

Ed Meehan: I'm just trying to refer to the minutes back in '74 when this subdivision was approved that it didn't.....

Attorney Karanian: Well, I wasn't involved.

Ed Meehan: I wasn't here either, but the record of the minutes, read into the record, clearly says that the bridle path was not to be crossed by vehicles.

Attorney Karanian: Going up here for example, is not supposed to have vehicles on it, but they access this like a street, it's like going over a sidewalk, same way.

Ed Meehan: Well, it just says, over the bridle path. It doesn't say which one, it says bridle paths are not to be used....

Attorney Karanian: Well, vehicles aren't because there are no vehicles that go up east/west, just going to Spur Lane, and that's only a few times a day.

Ed Meehan: Okay. I think the Commission shows the new map that was brought in today, you say the court situation is solved? Is that correct?

Attorney Karanian: Yes, as I'm saying, and reiterating, it's not (inaudible) Spur Lane up to Orchard Avenue.

Ed Meehan: I would just advise the Commission that you get an answer from the other side confirming that the court situation is resolved, because I don't think the Commission should get involved in the entanglement between two property owners on this, a legal entanglement.

Attorney Karanian: We are not entangled with this, they are entangled with the people who have the right to, we told them, the only entanglement that we have is that we told them to remove the cars from the right of way, the bridle path, we did not give them any permission to use it. They are saying that they have the right to use it.

Ed Meehan: And that caused a legal.....

Attorney Karanian: A legal issue, and I said, no you don't. That's why I say, we are not saying that we are giving them permission saying that is what the board is bound by, we're saying, you are parked here illegally, you shouldn't be parking cars here. Nobody has mentioned that here,

that has nothing to do with this, it's this party that has a two family house and instead of putting the parking area on this land, he started to use the bridle path because it wasn't being used he figured he had a right to just park his cars there.

Ed Meehan: That was priorly owned by Flagler Associates, right?

Attorney Karanian: No, not prior.

Ed Meehan: Didn't Mrs. Karanian buy that strip of land from Flagler?

Attorney Karanian: We bought the whole strip here, right over to here, but Botticello, who, say, in the last five years, it's not Botticello, it's a new owner there, started parking cars there, and that is where the legal entanglement came in, we said they couldn't park there, we were the ones that told them they couldn't park there.

Chairman Camilli: I'm just a little confused, you are saying there is no, you are saying that there is a legal entanglement, but there's no issue.....

Attorney Karanian: The issue is that we told them they couldn't park there.

Chairman Camilli: Yeah, I understand what the issue is, but....

Attorney Karanian: And they are asking if we will let them park there.

Chairman Camilli: So is this going to court, or not?

Attorney Karanian: On their part, it has nothing to do with us, we're not giving them any parking rights.

Chairman Camilli: What do you mean it has nothing to do with you, it's your land.

Attorney Karanian: Well, no, we told them they couldn't park there.

Chairman Camilli: So that does have something to do with you.

Attorney Karanian: But it doesn't affect what we are going here, we're telling them that they can't park there.

Commissioner Ancona: I think all he brought was an enjunctment action to keep them from parking the cars on the bridle path. I think that was it.

Attorney Karanian: That's what it is, yes.

Ed Meehan: So when Flagler Associates owned it, up until 2003 or 2004, they always had parked cars there, right?

Attorney Karanian: Evidentially they were, but not with permission.

Ed Meehan: Okay, that's what I wanted to know.

Attorney Karanian: What started it was, when back then we saw them parking there and we told them they couldn't park there, it was a bridle path, so again, she's getting punished for somebody else parking there, where they shouldn't.

Ed Meehan: Where are these people going to park if you don't let them park, are they going to move parking onto their property?

Attorney Karanian: Well, they can move it near the house, they could have parked right there if they wanted to, but because it is more convenient to just park there, after all, it wasn't being used. They aren't our vehicles, or my client's vehicles, or anything else, it's somebody else doing it. Nobody has evidently, we told them they would have to get approval from the rest of the, that's what brought the law suit, saying that we were kicking them off this property.

Ed Meehan: The rest of the what?

Attorney Karanian: No, well, in other words, permission to park there, and then everybody waives any rights to park their car there.

Ed Meehan: Oh, the other people who hold the easement over there?

Attorney Karanian: The rest of the people who have a right to traverse the bridle path, every one of them in the association, or whatever you want to call it would have to release any interest they have in the passing and re-passing to be able to park cars there.

Ed Meehan: So that is the rest of what you are talking about.

Attorney Karanian: If they were just going in and out it wouldn't make any difference because they are not blocking any use of it. That's what the issue is. Because we told them that they couldn't park there.

Ed Meehan: I'm all set.

Commissioner Ganley: At the last hearing that I was at, I was looking at that Spur Lane right of way, I noticed that the east/west part of it, running roughly fifteen feet, and then it made a right angle so as to go southerly, and that was also fifteen feet. I look at this new rendering and it's about four and a half, five feet. I was wondering who, and that was supposed to be a right of way within this deed that we are talking about here, and I'm curious to know how the north/south angle of the right of way suddenly got reduced to about five feet, and who said you can do that when it used to be fifteen feet.

Attorney Karanian: No, it's not reduced to five feet. That five feet comes to an angle down here, showing where the property line.....

Commissioner Ganley: Got one of the old maps? Here we go, right there. This one has a curb length of 32.34 feet, that's the curb length because it's a slight angle, it doesn't go directly east/west. Now we look over here, and on this new rendition, and we somehow come up with 53.90 feet, so I'm wondering, what happened to the western most line, where this used to be, it shows on this on 21.5 feet, and on this one it shows, I was right, I can see it up here barely, 5.39 feet. So what happened to the other fifteen feet?

Attorney Karanian: The total distance between the two spots is 53.90 feet.

Commissioner Ganley: Yeah, but it used to be only 32.34 feet.

Attorney Karanian: No, no, that's because the engineer, when he was preparing this, it's now, in other words, there's 39.9, if you were figuring from across this way here, you see where it says, 39.....

Commissioner Ganley: Yeah, I know what it says, but I'm saying, how did someone arbitrarily, for lack of a better word, someone arbitrarily decide to reduce the right angle width of the right of way from the curb measurement of 21.55 feet, down to 5.39 feet? How did someone do that. I mean, it's easy to draw a line on a map, but it's another thing to in effect erase the right of way.....

Attorney Karanian: I don't see where you see 22 feet.

Commissioner Ganley: That's on this rendering that I have here. The original rendering.

Ed Meehan: I think the intent, if I could step in, the original intent on the map that the Commission had at the opening of the public hearing was that Mrs. Karanian was going to sell to the owner of 28 Spur Lane or whatever the 21 foot length, width. The map that was submitted today, which the attorney has on the board there was reduced down to the five feet plus.

Commissioner Ganley: But it reduces the size of the right of way.

Ed Meehan: No, it's still fifty-three feet wide, it should be five plus forty-eight.

Attorney Karanian: The reason it was adjusted that way was so that we could accommodate the concern.

Ed Meehan: In other words, the idea in this map is to sell less land to the abutter at 28.

Attorney Karanian: And that was to address the concern about not having....

Chairman Camilli: Is the property being sold?

Attorney Karanian: No, it hasn't been, we're saying, they have to get permission from everybody else. We own, when I say we, my client owns the fee simple of the north and south of the north and south area of the bridle path, also across to the east.

Chairman Camilli: Anybody else? Are you all set? We'll hear from the public. You may have to come back up again.

Anybody from the public wishing to speak for this application. Against?

David Pells, 18 Spur Lane: As to the litigation, as the members of the Commission may know, the judicial department now operates a fairly good web site in which you can easily look up any litigation and the last time I looked, the case, which I think is Conterra versus Karanian was still pending and there is I believe a pre-trial scheduled for sometime this month. I forget the exact date. But certainly, from the web site, this has not been resolved.

I think Mr. Meehan is correct in that the driveway would be situated now does run over the east/west bridle path, and that is part of the entire bridle path system which the Commission, when it adopted the plan, said there was to be no vehicular traffic, so I think it is still bound by that.

Chairman Camilli: Thank you. Is there anyone else who wishes to speak against this application?

Bill Pellarella, 29 Spur Lane: I guess the question that I have is, from the last meeting to this meeting, a new map has been submitted. I guess the main reason was that when we had spoken at the last meeting they came up three feet short, with the sale of the 21 feet less the fifteen feet for the bridle path. Now all of a sudden, from the original map you come up with this map, they come up with this map and say, oh no, we have only to sell five feet, not twenty-one feet but as a Commissioner, I would seriously question what is taking place between 28 Spur Lane and the

applicant. There is a law suit pending, we all know that. That is why the cars are still allowed to be parked there, because they can park there until the court case is settled. But if you remember from the first meeting, when the applicant was asked if there was a court case, she stated no. She said no, it's been settled, it's been taken care of. That was with the sale of the twenty-one feet, that's why 28 Spur Lane wasn't here. But all of a sudden now, that didn't take place, because she found out that she came up short, so I think there are a number of unanswered questions here that the Commission should delve into or let the court cases take place. I'm suspecting to believe that there will be another lawsuit pending on that sale of the twenty-one feet, down now to five feet. I don't have to be a rocket scientist to figure out that there will probably, that there will be another law suit just on that alone, because from the first meeting to this meeting, that agreement has somehow now disappeared, and this map, all right, I'm just curious as to why the bridle path running east and west isn't shown. And the reason it's not shown is because the driveway goes over it. I think that is why it isn't being shown on here, and the agreement with the Commission back in '74 or '76 was no cross over with vehicles. So that is why it is not probably showing on that map there. So there are two bridle paths, north and south and east and west, not just north and south. North and south one is being shown, I seriously still question whether there is enough frontage there, but also that fact is that, that map doesn't show the east and west one. I just think there are a lot of unanswered questions here. Thank you.

Chairman Camilli: Is there anyone else who wishes to speak?
You can rebut.

Attorney Karanian: First of all, through the Chairman, I would like to ask both Mr. Pells and the other party, first of all I believe Mr. Pells owns this piece right over here, and I would like to know if his bridle path is open for use.

Chairman Camilli: Okay, we'll take care of that.

Attorney Karanian: I said, through the Chairman.

Chairman Camilli: Yes you did. Are you through asking any other questions?

Attorney Karanian: The other question is to the other gentleman, it seems that they are not concerned about the two parked cars on the bridle path, which we have been involved in a law suit to prevent them from doing it. Nobody else is doing anything. They haven't objected to cars being parked, they're not in use, they tried to get off the street, but I haven't heard anything about the objections to two parked vehicles or parked vehicles on the bridle path. I would like those two questions answered.

Chairman Camilli: Okay, you can come up and, so we have it on the record, the questions that were asked, you can come up and answer. Sorry about the inconvenience, but....

David Pells: I'm not sure which part of the bridle path Attorney Karanian is referring to.

Chairman Camilli: Right by your house. That's where he pointed to.

David Pells: The part of my property that fronts on Spur Lane, there is no bridle path there.

Chairman Camilli: Okay, there is no bridle path there? It doesn't extend this way. So there isn't any? Okay, that's your answer, according to what he said.

David Pells: It goes around the entire property, but it doesn't go on the road, it's all behind the houses.

Chairman Camilli: Okay. So there isn't one.

Attorney Karanian: Part of the question to him was also if he had any objection to the cars being parked.

Chairman Camilli: Okay, we're going to ask the other fellow. Do you want to answer that?

David Pells: I don't have a position on the cars being parked there.

Chairman Camilli: Okay.

Bill Pellarella: I don't think that I ever stated that I was opposed, or wasn't opposed to those vehicles parked there. If they shouldn't be there, then they shouldn't be there. Okay, I only found out, we recently bought maybe three years ago, the whole situation with the bridle paths and everything else and the reason that this whole thing is in court is because the original property owner that bought 28 recently, found out that that wasn't his property and it was a bridle path, so that is when I found out about it. And if they are not allowed to be parked on there, then they can't park on there.

Chairman Camilli: And that's why it's a court issue.

Bill Pellarella: Absolutely.

Chairman Camilli: Okay, I understand. Thank you. Any, how is the time on this? Do we have to close this?

Ed Meehan: No, you have additional time, you get basically sixty-five days to extend any one of the time periods, whether it's starting the public hearing, leaving it open, or your decision time period, and you have used up fourteen of those sixty-five days so far, so you have fifty-five days that you could extend the public hearing for another two weeks, or you could close it, but when you do this, your decision period, you have sixty-five days after you close the hearing, if you want to extend that again, you wouldn't have much time in the bank, in reserve to extend it.

Chairman Camilli: What is the pleasure of the Commission. Do you think we're going to get any more information?

Commissioner Kornichuk: It seems like we keep getting the same thing.

Commissioner Ganley: It's going to be more, he said, they said, back and forth, right of way.

Chairman Camilli: I think we understand what is going on.

Commissioner Ganley: I think we understand that we don't understand what is going on, which is even more important.

Commissioner Schatz: Same thing.

Commissioner Cariseo: Same.

Chairman Camilli: I think by the will of the Commission we are going to close Petition 21-07.

B. PETITION 27-07 2909 Berlin Turnpike, former Krispy Kreme property, ODG-Newington LLC, c/o Attorney Vincent F. Sabatini, One Market Square, Newington CT 06111 applicant, WEX-Puck Realty owner, request for Special Exception Section 3.19.1 Restaurant Use, PD Zone District.

Attorney Sabatini: Good evening, Mr. Chairman, Members of the Commission. My name is Vincent Sabatini, I'm an attorney, One Market Square, Newington, Connecticut. I'm here tonight representing the applicant on this application by ODG of Newington, LLC. We have three applications before the Commission tonight. One public hearing for the restaurant use, which we are in now, one for the liquor permit, restaurant use, and then a site plan application, and with the permission of the Chairman, I would ask that all my comments be incorporated in each of the three hearings if that is okay.

Chairman Camilli: Okay.

Attorney Sabatini: I would also like to state before I start, on the agenda that was passed out, our site plan modification permit did not appear, I understand from Mr. Meehan that that was going to be written in tonight.

Chairman Camilli: It was.

Attorney Sabatini: It does appear now? Thank you. With me tonight is Al Bongiovanni, he is the surveyor/engineer on this site and will answer all technical questions. Also with me tonight are representatives of the applicant, Joseph Maggi and his partner, Sarah Maggi-Moran, and they will be here to answer any questions that you might have.

To give you just an overview of what is going to happen here, most of the members that are on the Commission now were on the Commission in 2002 when we came in here, Mr. Bongiovanni and I representing Krispy Kreme, and developed the site as a Krispy Kreme site. At that time the Commission approved the building that is there now, which is located in yellow, the existing building on the map, as well as a future pad site, in approximately the location, Mr. Bongiovanni is putting up the map of the prior approval. The retail pad site was a future development and did not get built in the last five years. The Krispy Kreme building did get built, and as you all know, Krispy Kreme went out of business, and currently Citibank is now the tenant in that building. We are here tonight to develop the retail site and we are going to develop that as a Buffalo Wild Wings Grill and Bar Restaurant, and this application really is like a flip of what happened before. The restaurant use was contemplated for where the bank is now, the retail on the other side, so we are just turning things around.

I'd like to hand out to the Commission some literature on Buffalo Wild Wings so you will get some kind of an idea of what they are. Also let you know that the developer in this case has experience in over one hundred commercial developments of various kinds, and he is currently developing a Buffalo Wild Wings Restaurant in Windsor, CT which is under construction, they received approval for that.

This building is going to be approximately 6,000 square feet. Buffalo Wild Wings is a national company, one of the fastest growing chains in the country. You see from the hand out, they have over 400 locations right now, and we're going to go into, I don't think you want to go into it now, but we will go into, unless you want to, what it is going to look like, the materials, shall we save that for the site plan.

Chairman Camilli: Yeah, we'll save that.

Attorney Sabatini: So we are talking about a restaurant use and this is a PD, Planned Development Zone, and the use is allowed as a matter of right, as a Special Exception. The only I think, condition that is pertinent to this application is that the site has to have direct access to the

Berlin Turnpike or to a public street, which directly connects to the Berlin Turnpike. In this case this site has both. We have connection, access to the Berlin Turnpike and we have access to the Berlin Turnpike via Main Street. All of the other conditions of the requirement for restaurant use are I believe met, and if the Commission has any questions or particular concerns about the Special Exception. It's not going to be a, I should say, there is no drive through, and even though the elevation shows a take out, that is incorrect. The architect merely referred to that elevation side as the take out side, there is not going to be a take out door or window in this particular restaurant, so it is just a restaurant for consumption of food within the building, tables or counters, and there is going to be a little outside seating area and again, unless there are other questions, there is not much to say about this particular application for a restaurant.

Chairman Camilli: Hours of operation?

Attorney Sabatini: Oh yeah. I want to say something else. The comments that the Planner made I do not believe apply to the restaurant use. He did indicate that this was formerly the Krispy Kreme site, he did indicate that the Commission and the Town wanted to see how long Krispy Kreme, wanted to see that Krispy Kreme was established for a long enough period of time to see how the parking and traffic worked out. He comes to the conclusion that it is minimal, so I don't think there are any issues about parking, about traffic circulation, or any of that. The business operation is going to be open seven days a week, 11:00 a.m. to 1:00 a.m. The average customer is there about an hour and a half, and that's it.

Chairman Camilli: I'm not sure on just the restaurant use.....

Ed Meehan: What is the occupancy, tables and chairs, is that in your handout?

Attorney Sabatini: There is potential for 239 customers inside, and 48 outside, should they be so lucky. That's all I have at this particular time.

Chairman Camilli: Ed, do you have any questions?

Ed Meehan: No, well number of employees.

Attorney Sabatini: Eighty-five to one hundred employees.

Ed Meehan: Per shift?

Attorney Sabatini: Fifteen to twenty.

Chairman Camilli: We're just trying to get a handle on parking. Some of these questions will come up under site plan. Any other questions on this? We know the hours of operation, we know what it is. Ed, are you satisfied, anything else?

Ed Meehan: No, they answered the take out question, when they made the remark about the elevations, so that's clarified.

Chairman Camilli: You also said there is going to be outside seating as well.

Attorney Sabatini: Yes.

Commissioner Schatz: We approved a site, a pad for 5,160 square feet before, now this pad will be bigger.

Chairman Camilli: We'll address that under site plan. We're just, restaurant use right now. We can hear from the public right now. Anyone from the public wishing to speak in favor of this application? Against?

Stan Sliva, 45 Melvin Road West Hartford: I would just like to address the Commission, just for the record, being allowed to speak, I'm not a resident of the Town of Newington, I do own the property, one third at 2121 Main Street. I guess my main question now is, we have numerous concerns but should I wait and address them all at once, once the site plan and everything is brought up, or should I....there are three applications, and everything that I have prepared are kind of intertwined and I'm, I don't want to be repetitious or miss something.

Chairman Camilli: Well, do you know enough to state you, whatever you want to state as far as your objections go. If you want to state them, for the record, go ahead.

Stan Sliva: Okay, this is the appropriate time?

Chairman Camilli: I don't know what you are going to say, so see what you can say, you can't really talk about the site plan issues, because we really haven't, we'll have to hear what you say, as far as a restaurant use.

Stan Sliva: Okay, I'll try to piece this together.

Chairman Camilli: He can't speak on the site plan, right?

Ed Meehan: No he can't, that's why, if you are going to say anything for the record, say it now as part of the Special Exception because the public hearing is not on the site plan, it's on the liquor permit and the restaurant.

Stan Sliva: Okay, so I'm going to, correct me if I'm....first and foremost, we are not necessarily totally opposed to any project or development in the town, and we are not totally opposed to this project, however, we do have some concerns, and we think they are reasonable concerns that I think the Commission should address.

As you all know, going back several years, some of the concerns are the same as what occurred when Krispy Kreme was developed and this site was approved. Krispy Kreme is no longer with us, it went the way of many businesses in Newington, could be a trivia questions I guess with GEMS and Two Guys and Rickels. Most important, I'm going to ask the Commission to address our concerns if they are going to approve this application.

The most important piece of the pie and when this original application came before the Commission was that we requested that the applicant have egress onto the Berlin Turnpike, and from what I looked at the plans, there is no egress to the Berlin Turnpike on these plans. I know it comes down to the State and there is going to be an argument and Mr. Meehan was kind enough to talk to me on the phone, that the State may not approve it. They didn't want to approve it the first time. Well, I think anything can be worked out and with proper communication, and proper adjustments to whatever, and a meeting with the State would be part of this. It is a restaurant, it is a Berlin Turnpike location, it's not a Main Street location. As it is developed now, once again, all the traffic, all the exits are going to go onto Main Street. Everyone that goes in there is going to have to exit onto Main Street, and they also will enter from Main, not everyone, but many people will enter. I notice on the site plan when I looked at it when I got here, there is a sign that says, no trucks are to enter from the Berlin Turnpike. I don't understand that. That is our main concern, it always has been and it always will be, the egress onto the Berlin Turnpike should be approved, or should be obtained, prior to approval of this site plan.

Also, they didn't mention anything about take-out service, if they are going to, like some of the restaurants, like Chili's, have you drive up and pick up your things and drive out, I didn't hear anything about that.

Our second main issue that goes back to the original site plan is smell or odor. This was addressed with the Commission several years ago however, I think Miss Janice Matthews sold everybody a bill of goods. Krispy Kreme stunk! The smell, grease and everything you could smell it at my mother's house. Complaints were made to the town, they listened, nothing was done. The smell didn't stop until they went out of business. I implore the Commission to set high standards for odor emission. Not only set those standards, but enforce them. I heard Mr. Sabatini mention that this is going to be just a flip flop, there is going to be no traffic impact. Well, I think it's going to be greater traffic impact especially in the later hours than Krispy Kreme was. You are talking about a restaurant similar to a Friday's or Chili's. It will probably be very popular from what I read on the web site, it's a growing establishment. They are open until 1:00 a.m. every day. As much as we were anti-Krispy Kreme, and being open late with the drive through and whatnot, we feel this is going to generate more traffic in the late hours when you don't want it. I think Attorney Sabatini said that Mr. Meehan said that there is a mute traffic issue, well, it's mute now because Krispy Kreme closed, and there's a Citibank there which is a great neighbor. The other issue is delivery and trash. Once again, I noticed on the site plan trucks weren't to enter on the Berlin Turnpike, so now everything is going to have to come through Main Street, right by 2121 Main Street. We asked the Commission to set reasonable standards for delivery of trash and then truck delivery. I don't think an 8:00 a.m. will be an unreasonable hour to limit the deliveries to. I didn't realize that there were three proposals because I took the thing off of the web site but I guess there are three, but I'm only addressing two. There are three proposals that the Commission has to look at. One is to increase the building lot, or excuse me the pad site by about 800 feet; the other is the liquor permit which is the key to this whole component for this establishment as far as I'm concerned, and the third, I'm not sure what it was because I don't have the information in front of me. I respectfully ask the Commission to address our concerns. We ask you not to approve this project without addressing the neighborhood concerns. There's not a hundred people here because our neighborhood is not a hundred people. The most important concern we have is the egress onto the Berlin Turnpike. With the late night operation, the number of cars and the type of operation there should be an exit onto the Berlin Turnpike for patrons to go through to minimize the impact on Main Street and the impact on our quality of life at one o'clock in the morning.

There was an applicant here before this Commission back about five years ago, many of the same names are here, many of the same people, and quite frankly, I thought they were less than honest, and I think that played out. The old saying goes, fool me once, shame on you, fool me twice, shame on me. Please, I implore you, don't be fooled twice. Thank you.

Chairman Camilli: Thank you. Anyone else from the public wishing to speak against?

Lori Dobowski, 2107 Main Street: I'm also a third owner of 2121 Main Street. I actually live in that neighborhood, and when Krispy Kreme was there, it was a nightmare. I called the police each and every weekend, every Thursday, Friday and Saturday. It put a great strain on me, it put a great strain on everybody in the neighborhood. You need to think about this. We heard every scream and yell in that parking lot until one o'clock in the morning. Now you are going to have 48 people sitting outside until one o'clock in the morning, drinking! Then exiting into a residential neighborhood. You really need to think about that. You have an assisted living facility directly across from the driveway. These are older people, they are sleeping. Trucks come in at four o'clock in the morning, and they go beep, beep, beep, beep for an hour, hour and a half. Their engines are running, it was disgusting. We complained and complained but no one would listen, so please, try this time to look into this before you approve it. Thank you.

Chairman Camilli: Is there anyone else wishing to speak against?

Jill Dobowski, 2121 Main Street: I live directly in front of that only exit on Main Street. The outside noise is unacceptable at one o'clock in the morning. It's a residential neighborhood, there are young children in that house, and we could hear every single word that those people talked about, they were screaming and they were yelling, and they weren't even drinking. With the people, and the alcohol and the outside, I'm young, I know what that kind of environment is, and this is just not acceptable for a neighborhood. I'm sorry but I hope that the Commission will take that into consideration.

Chairman Camilli: Where did you hear this? Did it come from the Krispy Kreme parking lot when it was open.

Jill Dobowski: Yes, you could go out there Wednesday nights, Thursday nights, all through the weekend and hang out. The only exit is directly in front of my house. They burn their tires, they just leave recklessly, in a neighborhood. That's my house, that's where I live. There are young children in that house, and every single day of the week, until one o'clock in the morning, a bar in my neighborhood is unacceptable, and I hope you seriously think about that. I would appreciate it.

Chairman Camilli: Thank you. Is there anyone else wishing to speak. You may rebut.

Attorney Sabatini: Just a couple of things. One, although I respect the opinions of any person, just for the record, these people are not within a hundred feet of this site, and they are not legally aggrieved, so with regard to the egress on the Berlin Turnpike, that is controlled by the State of Connecticut, the curb cut cannot be changed even though we did try. We hired Vincent Aveno, I think you know who he is, and he was not successful in having the curb cut changed. The trucks coming in from the Berlin Turnpike, the State put that ban on it, there is nothing we can do about that. We do not have a take out window, so there is not going to be anyone who pulls up and goes to a window and takes the food out, we don't have that.

Chairman Camilli: You don't have a take out window, but I think the question was are you going to have people drive up and have people bring things out to the cars?

Attorney Sabatini: No. No curb service.

Chairman Camilli: Okay, I think that is what he meant.

Attorney Sabatini: I don't know what noise people are hearing now, right now there is a bank there, I mean, if something goes on in that parking lot now, I'm not aware of it. This is going to be a business and it's going to run as a business, people are going to be inside, eating and doing whatever they do inside. That's all I have to say.

Chairman Camilli: The people who spoke, anyone wishing to, you have another shot here if you wish. Anyone wishing to rebut that?

Stan Sliva: Once again with all due respect, Mr. Sabatini, it's Citibank now. There are no noise issues there now. The noise issues were when Krispy Kreme was there, the noise issues will continue when the Wild Wings come into play, and secondly, this pad site, I forgot to mention the first time, because I got kind of off track, is a I believe was approved as a retail establishment. I may be incorrect, Commissioners correct me if I'm mistaken on that and one of the exceptions is to change it to a restaurant. It should stay a retail establishment, a shop to sell bedding or knickknacks or whatever, it doesn't need to be a restaurant in that location. Thank you for your time.

Chairman Camilli: This is on the restaurant now, do you have enough information. Do you want to keep it open?

Ed Meehan: It's up to you. I mean, one of the first (inaudible) you mentioned that you, Attorney Sabatini, you mentioned trying to get Mr. Aveno to reconsider or ask ConnDot....

Attorney Sabatini: Yes. He has already.

Ed Meehan: Is that recently?

Attorney Sabatini: Yes, and I think when we met with you Mr. Meehan, you, we had different types of plans that we were looking at, but the State will not change that curb cut.

Chairman Camilli: Can we get that in writing?

Attorney Sabatini: From me, I'll send you a letter.

Ed Meehan: Who did he speak with down at....

Attorney Sabatini: Everybody, you know Mr. Aveno used to run the section of the DOT that made the decisions.

Ed Meehan: Maybe he can get something from one of his former co-workers down there, because....

Attorney Sabatini: The state is not going to say anything in writing.

Ed Meehan: I think it's a valid question. The traffic complexion of this use may be a little lighter than a Krispy Kreme because Krispy Kreme as we all know, had such marketing and such an intensive use of the site. I think that was one of the reasons that maybe ConnDot was concerned about having exiting out there, the volume of traffic coming out of a drive-through restaurant, crossing over two lanes, to take a left and go north, I think was a concern. Maybe with this type of use, they will reconsider.

Attorney Sabatini: Here's what I can put on the record. Mr. Aveno was retained by the developer and myself to determine whether or not curb cuts could be changed. He came back and told us it could not be changed, therefore we filed a site plan with the curb cut as is. Mr. Aveno said that the State said that it is deed restricted.

Ed Meehan: There is a non-access line.

Attorney Sabatini: Deed restricted. The curb cut is part of a deed restriction.

Ed Meehan: So when rights of way conveyed it to, what was it....

Attorney Sabatini: Jan Companies.

Ed Meehan: Yes, it was in a deed.

Attorney Sabatini: Yes, that is what Mr. Aveno told us.

Ed Meehan: We can check the deed.

Chairman Camilli: Okay. Thank you. Are we going to get anything more on this? Do you feel comfortable?

Ed Meehan: One of the items under your Special Exception criteria, it's touched on in my staff comments under the elevation remarks is about signage, lighting, it's item F under Special Exception criteria, and there was a key on the elevation that had to do with a signage and four foot lighting fixture. I think it might be appropriate to talk about that under Special Exception since it is one of the criteria that the Commission uses.

Attorney Sabatini: Your question is what will the four foot light fixture look like?

Ed Meehan: Yes, what is that.

Attorney Sabatini: Alan, can you answer that.

Ed Meehan: I think it was on the front, like the diamond, or a wedge on the front.

Attorney Sabatini: Is that on the building, Ed?

Ed Meehan: Yes,.

Alan Bongiovanni: For the record, Alan Bongiovanni, 170 Pane Road, I think what you are referring to Ed is this yellow element of the buiding, this is what is referred to in the plans as the diamond shape, that is the taller projection, or taller section of the building that has the signage on it, the Buffalo Wild Wings logo.

Ed Meehan: Key number twenty, it says four foot light fixture. Is that a neon light, what kind of a light fixture is that?

Alan Bongiovanni: I think what that is, is that you have that silver band, this metallic band, or facia, section. There is a light strip on top of that, that I believes illuminates that yellow element. It's not a neon strip, it's more of an accent light.

Ed Meehan: It's not that black and white band that runs.....

Alan Bongiovanni: No, no, no, no, it's just these.....

Ed Meehan: It's horizontal, not vertical.

Alan Bongiovanni: It's these horizontal that are mounted on top of the strip, that will illuminate that section of the building. That is one of their key trademarks, that section of the building.

Ed Meehan: Okay.

Alan Bongiovanni: If I could Mr. Chairman, in regards to that deed, I think if you look on the site plan, the existing conditions, there is a reference to that deed. When this piece was removed and sold from this, that is how they created it, that was how they marketed it and sold it, that this is a non-access highway line, all the way to this point on Main Street. In order to change that, it would be like trying to get a curb cut on I-91 or I-84. It's the same condition. The property was created with no access allowed.

Attorney Sabatini: I think it is part of the record from the prior approval. The same issue came up at that time.

Chairman Camilli: I remember.

Attorney Sabatini: As a matter of fact, the Commission had a suggestion, let's have it some place else, and the State said no. So, I don't know what else we can say about it.

Ed Meehan: I know the Commission approved it with an exit onto the Berlin Turnpike, it went to rights of way, it came back, I think I referenced it in my staff report, ConnDot did not approve it, and we had to re-submit it the way that it is. The plan on the right, which is the original Krispy Kreme plan. So, I know there was a non-access line, I can check the deed and see if it ended up in the deed too.

Chairman Camilli: Okay. So what do the Commissioner's think. Do you want to leave this open, or close it?

Commissioner Fox: Close it.

Commissioners: Close it.

Chairman Camilli: Okay, so we will close Petition 28-07.

C. PETITION 28-07 2909 Berlin Turnpike, former Krispy Kreme property, ODG-Newington LLC, c/o Attorney Vincent F. Sabatini, One Market Square, Newington CT 06111 applicant, WEX-Puck Realty owner, request for Special Permit Section 6.6 Liquor Permit Restaurant Use, PD Zone District.

Attorney Sabatini: Good evening Mr. Chairman, Members of the Commission, Vincent Sabatini, attorney, One Market Square, Newington, CT., again, the comments that I made earlier and those made by Mr. Bongiovanni would apply to this hearing. Under 6.6.2, Special Permit for Restaurant Use Permit, you have to satisfy certain conditions, primarily under 6.6.3 (A), we have to show you that we are not within five hundred feet of a college, school, church, or hospital and there is no college, school, church, or hospital within a five hundred foot radius of this site. We have a radius map submitted, prepared by BGI. Also, under 6.6.3 (B) we have to satisfy you that there is no similar alcoholic beverage permit with a distance of five hundred feet, measured from front door to front door of each establishment. The only establishment to serve liquor in this area is Bertucci's and that is outside of the five hundred foot limit. So, this again is a restaurant permit, and we satisfy all of the conditions of the regulations and the general Special Exception regulations, I move that the hearing be closed and I have nothing else to add, unless there are some questions.

Chairman Camilli: Thank you for guiding the Chairman. Any questions from the Commissioners.

Commissioner Kornichuk: I would like to know the hours for the drinking for the outside.

Attorney Sabatini: The hours outside?

Commissioner Kornichuk: For drinking.

Attorney Sabatini: Yes, will be to one o'clock. I think in Connecticut they could be two o'clock, but it's going to be until one.

Commissioner Fox: Only on Friday and Saturday.

Attorney Sabatini: But it's going to be 11:00 to 1:00 seven days a week.

Chairman Camilli: Any other questions? Ed, do you have anything?

Ed Meehan: No.

Chairman Camilli: This is kind of straight forward, but we will hear from the public. Anyone from the public wishing to speak in favor? Against?

Stan Sliva, property owner, 2121 Main Street: If I read it right, it is a Planned Development District, and that site needs a special approval to be a restaurant. The Commission has to approve it, if I read it right. Basically the restaurant, the hours, whatnot, do not fit this site plan. When the original intent was to put a retail establishment there, which it should be, a retail establishment. I must concur that the deed does say, does restrict the egress, I have a copy.

Chairman Camilli: Okay, thank you. That takes care of that question. We will close Petition 28-07.

D. PETITION 30-07 Fenn Road at intersection of Cedar and Fenn, Fenn Road Associates, LLC, owners and applicant, 1481 Pleasant Valley Road, Manchester, CT 06042 represented by Attorney Leonard Jacobs, 146 Main Street, Manchester, CT 06040, request for Special Permit Section 6.4 Removal of Earth, I (Industrial) Zone District. Schedule for Public Hearing July 11, 2007. Inland Wetland Agency Report Required.

Attorney Jacobs: Thank you Mr. Chairman, I'm Attorney Leonard Jacobs, 146 Main Street representing the applicant, Fenn Road Associates, and Brandon Hanfield, who is our engineer from Anchor Engineering will take part in the presentation. Richard Hayes, Jr. who is part of the applicant group is also here and if you don't mind, we will try to probably have a brief presentation. Fenn Road Associates owns two lots located on the easterly side of Fenn Road. You can see Fenn Road here, and Cedar Street here, here's one lot, here's two lots. This is the Stop and Shop shopping center over on the far side of the property. One of the lots as I said has frontage on Cedar, both have access, or frontage on Fenn Road. Our application is a very simple, I think, pretty standard application. It's a request under Section 6.4 of your regulations and what we basically want to do is move material around our site. We are not bringing anything onto our site, we are not taking anything off of our site, we just want to take some of the ground that has the hill type stuff on it, so we can level it off so we can get the property in shape for future use. We have reviewed the requirements of Section 6.4, we think we meet all the requirements. The property itself is in an Industrial Zone and we have no specific plan for the property. You will remember on your hearing on the zone change regulations, we told you that we anticipate this property coming into the Planned Business Zone, but at the moment it's in the Industrial Zone, but in either case we have to grade the site so it will work. We think we are compliant with the regulations, we aren't going to have any adverse impact on any neighbors, we don't abut obviously any residential type neighbors in any case, the properties around us are our own property in a different name. The Stop and Shop property behind us is the property where the bus route may go in the future, and then behind that is the property with the contamination issues. So, we're not going to affect anyone, all we are basically trying to do is put our property into shape. I do have to tell you that we did have to file a wetland application with this application simultaneously. The Wetland application will not be accepted until next Tuesday, and the way that the Wetland Commission works they have to determine whether, well, they have to schedule a public hearing under their rules, so our wetland application won't be heard until August. So although you can hear our application, and we appreciate that you are, you won't be able to make a decision on it until after the Wetland Commission decides sometime in August, but at least we can get through the hearing, so what I would like to do is ask Brandon to please describe to you what we are exactly doing on the site, and then we'll take questions if there are any.

Brandon Hanfield: Thank you. I'm a professional engineer in the State of Connecticut with Anchor Engineering. I'd like to briefly go through the existing site. As Len said, it's on Fenn Road and Cedar Street, consists of two parcels. In general the site is covered in thick vegetation, low brush, some tree growth. On the northerly property, that's 16 Fenn Road, there are two structures, it's a residential structure with an out building, and a driveway leading down to it, on 17 Cedar Street there is a retail and commercial building. As part of our plan, the residential structure will be taken down and removed. The commercial retail building will remain. Topography on the site, I know it is light, but in general, there is a high point here on the northerly corner, this is filled and it basically slopes down to the east of the property, down to a wetland area here and what we are proposing to do is to take material from this area here and relocate it down and create a flatter area here for the rest of the property. There are seventeen thousand yards, plus or minus that is going to be re-located. I have another plan here. It basically shows the delineation of cuts and fills on the site. This is primarily cut, and what we are doing is pushing that material down here and creating a little bit more usable area on the site. Soil erosion controls on site consist of, at the bottom of the embankment we are going to have silt fence backed up with hay bales and at the entrance of the site, which will be in the vicinity of the residential structure we're proposing an anti-tracking apron. There are also soil stockpiles designated and anywhere there are fills above what exist now, we are proposing a silt fence. It's a rather short term construction project, so additional controls we thought were not necessary. It will be a short term project and then once the grading is finished, we are proposing four inches of top soil will be placed and turf established on the entire site, so we don't anticipate any change in drainage over the length of the project.

Chairman Camilli: Ed, anything?

Ed Meehan: Now, what is, you said short term, what is that, three month, four months.....

Brandon Hanfield: Sixty days.

Ed Meehan: Sixty days, okay. How is that slope to be stabilized? Is that going to be four inches with like hydroseed on it, or is it going to be grass map, or.....

Brandon Hanfield: We have four inches of top soil and then a turf mixture consistent with, I mean, if you want hydroseed, then hydroseed it is.

Ed Meehan: Okay. The only, more of an observation than a question I guess, will there be some way to control people who may want to cut out from behind Big Bob's across the site to Fenn Road? I mean, once this is graded, you will be surprised what people will try to do.

Richard Hayes: There are berms that currently exist along Fenn Road and along the rear of Big Bobs. We would have every intention of leaving those in place at this, in the future to prevent that type of issue. We are already having some of those issues now.

Ed Meehan: Thank you. How will the stockpile be stabilized? Is that going to be hydroseeded or seeded also and how high will that be?

Brandon Hanfield. I don't anticipate, we'll probably remove top soil, stock pile it for a short period of time, push the material down here.

Ed Meehan: It's temporary.

Brandon Hanfield: Yeah, it's temporary, not permanent.

Attorney Jacobs: In the end, we do want to have the six and a half acres of land end up in a usable condition, that's the purpose of this.

Chairman Camilli: Any questions from the Commissioners?

Commissioner Fox: So after the sixty days operational period both those parcels will be leveled and hydroseeded.

Attorney Jacobs: That's correct and then obviously when we identify users we will be back in front of you, but at that point we will have a site that is level, it will be covered, it will be grassed as we indicated and it will sit there until we have a use to bring back to you.

Commissioner Fox: Thank you.

Chairman Camilli: This is a public hearing. Anyone from the public wishing to speak in favor? Against? We are going to close Petition 30-07.

Attorney Jacobs: Thank you.

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

Stephen Tabor, 52 Rockledge Drive: I'm here to speak about the grading issue on my abutting property, Lot 4, by my neighbor. There was a bond taken out on this when the subdivision was put in. The way things are going, the last I heard from the town is, was that they were going to come out and grade the slope to the required three to one slope.....

Chairman Camilli: Who is they, the town?

Stephen Tabor: No, the builder, his name is Larry Webster, for the owners of Lot #4, and nothing has been done so far, and we're into the summer months now, and it was supposed to be done in the spring. I gave my permission to allow them to come onto my property for the clean-up of that grading and whatnot. Just a brief history, that whole subdivision was a difficult development, there was a lot of blasting, a lot of ledge and everything. I did a plot plan and my building plan for the Town of Newington. It was stamped and approved with the notation of course that you require to grade exactly as to the plan for acceptance with the Town of Newington. As my plan stated, I graded it, it was, we had a tough time grading that lot and everything. I had two as-builts done, surveys by the engineer, Hallisey, Cassidy and Pearson, and my lot conformed exactly to my plot plan. My neighbor's lot, there was an eroding slope there now, it is continuing to erode down onto my property, there's a bond out on it, they are in violation of the zoning requirement. The zoning regulation of the slope, the slope is supposed to be a three to one slope, and the requirement of that particular subdivision on the subdivision plan, the approved subdivision plan, is three to one slope. I was in the town hall, I met with Art Hanke a few weeks ago, and I asked him, well, what do we do? What is the next step here? Do you issue a violation, do you fine someone for this, you know, do you call the bond in, and he said, his answer was that he can't call the bond, that the State regulation is that that bond can run for ten years before you guys can call the bond, and he would be retired before that happened. For non-performance, when can you call a bond, and then what actions are taken after that. I just, I don't want to keep coming and bothering you guys with this, but you know, nothing is being done. I spoke to my neighbor, Art urged me to speak to my neighbor, I've no ill feeling toward my neighbors, we've, I spoke to the wife and she's pretty much in the dark about what is going on, she hasn't heard from the town she said, and as far as they know, they were getting their bond back, for not doing anything and I

don't, and Art now is going to draft a letter to write to them, to let them know what is going on, but.....

Chairman Camilli: Have you spoken with Steve?

Ed Meehan: Not recently.

Chairman Camilli: Do you know anything about this?

Ed Meehan: Oh yeah.

Stephen Tabor: He's aware.

Chairman Camilli: Oh I know that he's aware, but frankly what can we do.....

Stephen Tabor: I would just like to know the next step, what can we do to get this thing going.

Ed Meehan: Well, we sort of tried to broker both neighbors getting together, and to agree on a grading plan, and the, Mr. Tabor is correct we have a bond of \$2500.00. At the same time that the Tabor household signed off, giving permission to come on his property, within reason to take care of this issue, we also asked his neighbor, Aldiari to also grant permission, from each party and they didn't do it. They wouldn't do it, so we are at a loggerhead. Until they, and it is their contractor that posted the \$2500.00 bond, so until they grant the permission, we can't force them. We have five years under state statutes unless

Stephen Tabor: Five, okay, Art Hanke said....

Ed Meehan: Well, only if the Commission grants an additional extension of five years, and that is not necessary in this subdivision.

Stephen Tabor: It's been going on four years, 2003.

Chairman Camilli: Who didn't grant permission?

Ed Meehan: Steve's neighbor to the east, who is uphill of him. Their contractor posted the bond, their condition of the certificate of occupancy they were required to submit certified as built to the top of foundation, tie in drain pipes to a system...

Stephen Tabor: He put PVC drains, they go into the ground, but I don't know where they go.

Ed Meehan: They go into the street system. And the third thing was the grading, and some landscaping I guess juniper or ground cover to stabilize the slope, and then we proceeded to get permission from both property owners probably over a year ago you may have signed off.

Stephen Tabor: I did, I gave a certified letter to the town.

Ed Meehan: But the neighbors would not sign, so that's where we are. We can go back and ask.

Chairman Camilli: So, is it between or among the parties there, or are.....

Ed Meehan: Our role is to try to get the bond enforced, because it was a condition of the c.o. We tried to do that by getting the permissions from the two property owners.

Stephen Tabor: Now one other question on what Art Hanke said, but ultimately the subdivision, when, for Pat Snow, the developer of the entire subdivision to get his bond money back, all the grading within that subdivision has to comply to the subdivision requirements, a three to one slope or a retaining wall needs to be constructed. Now, I understand that Pat Snow of Premier Building sold that property to him, and he had another builder build the house, but isn't Pat Snow, or Premier Building ultimately responsible for all the grading in that subdivision? For the approval of that subdivision?

Ed Meehan: Within the public right of way. He sold you a lot too, right?

Stephen Tabor: Right.

Ed Meehan: So, you had two different developers, two different contractors, two different grading plans.

Stephen Tabor: Four or five lots up there were sold independently, just the lots.

Ed Meehan: Mr. Snow is the developer responsible for the grading plan within the public right of way to ensure that the general grading plan is going to conform to the drainage pattern which the town engineer approved for that. That's the extent of Snow's involvement. When he sold the lots, he pretty much turned over the grading of those lots to the people who bought them. So, he's out of it, it's between you and your neighbor and I think what Art was telling you, you have to go back to your neighbor, remind him of the history of this, and apparently Mr. Webster doesn't want his twenty-five hundred dollars.

Stephen Tabor: What I heard from Art Hanke is that Larry Webster was down here early winter, mid-winter, whatever, and he had several bonds out on several properties, and this one came up on Rockledge and he said, yeah, I'm going to take care of that in the spring. And that was it. When we first had this problem, we all met and we came to the conclusion that we were going to try to grade between the two lots, and this is what happened. When the grade was done between the two lots, water built up and came right into my cellar and flooded my basement. Now I know that there is a generalized, there is supposed to be acceptable construction practices when you develop property, and you are supposed to control your runoff, whatever, that's an accepted building practice with acceptable practices and this is not an acceptable practice.

Ed Meehan: That is why the drain pipes were tied in, to get all the surface flow and minimize, especially the flow coming off the roof, there's a couple of (inaudible) on that side of the house, and the roof side was aiming right towards you. So I think that part was done. I think what Art was telling you the last time you were in, Steve, is that he was going to go back to your neighbor and say, here's where we are, with this, you know, not now, not this month, we are coming into again to a construction season, are you going to have your guy out there to take care of this.

Stephen Tabor: But what ultimately happens if they never come out?

Ed Meehan: If they don't come out and we call the bond, and they won't let us on the property, the question is, can we go on your property, with a bobcat of some small piece of equipment.

Stephen Tabor: Right, but you will be grading his property.

Ed Meehan: That's the issue, but he signed the bond, so when you sign the bond you basically say to the town, you know, to enforce this, you have the right to go on our property.

Stephen Tabor: So through the bond, he is giving you guys permission to go on his property.

Ed Meehan: I would confirm that with the Town Attorney before I do it, but he agreed that he was going to do the work, and you can't do the work unless you get on the property.

Stephen Tabor: Right, because my intention is if nothing is done by this fall, I'm going to dig it out, I'm going to put corrugated pipe, I'm going to put a French drain in there, because I don't want any more water issues coming into my basement. I want to drain it off into the conservation easement to the back, so if water comes in, it's a low area, it's the side of my house, it's going right to my foundation.

Ed Meehan: I wasn't aware of the water problem, I thought we solved it. I was concerned about the rock.

Stephen Tabor: No. Every time it rains and I have a high flood issue, I document it, I take pictures, I document everything.

Chairman Camilli: So when would we call the bond? I mean, if we call the bond, we have that \$2500 to do the work.

Ed Meehan: Yeah, we'd have to find a contractor to come in and do it.

Chairman Camilli: And it would be okay?

Ed Meehan: Yeah, he gave us permission.

Chairman Camilli: We have permission through the bond to go and fix it, so how long?

Ed Meehan: How long? They have five years.

Stephen Tabor: Four are used up, it started in 2003.

Chairman Camilli: Wait a minute, could we call the bond now or do we have to wait a certain amount of time.

Ed Meehan: What we could do is what we have been doing annually or semi-annually for the last three years, is write his neighbor, and say, when are you going to fix the problem? We're getting close to that five year period.

Chairman Camilli: Do we have to wait the five years?

Ed Meehan: We don't wait, we've been sending letters....

Chairman Camilli: I mean to call the bond.

Ed Meehan: Oh no, you don't have to wait.

Chairman Camilli: We could do it now if we wanted to.

Ed Meehan: Yeah, we could but I think I would want to make sure that again, you're....

Stephen Tabor: This is like the last letter effort to get something done.

Ed Meehan: And your most recent letter, granting us permission is still valid, update that if we have to, and then schedule, find a contractor to go out and do the work.

Stephen Tabor: The town is going do.....

Ed Meehan: Well, we become the contractor. We take over the responsibility for finding someone to do the work, to get permission to go on the property, we assume liability, if there is an irrigation system or utilities, or if a rock rolls down and hits one of your condensers, we've been out, we know what is out there.

Stephen Tabor: Right.

Ed Meehan: We're responsible.

Stephen Tabor: But what about ultimately, violation wise? Like, the zoning regulations, how do you guys enforce that? Do you go out there and write somebody a ticket, do you arrest them, do you fine them, I mean, I don't know, I don't know how this works.

Ed Meehan: Right now there is not going to be any zoning violation for the way those two lots are graded. There was a bust in the survey for those two lots, your lot was the worst location for a house to be put on that property in it's natural state, it's right on the edge of the cliff. We stopped your job early on because you were filling and cutting down trees in the conservation area, you went through two or three contractors before you got the grade right on that lot.

Stephen Tabor: Two, and I didn't cut down any trees in the conservation area.

Ed Meehan: Let me go back a little bit, your neighbor did the same thing that you were doing below, he was doing above. Neither of you guys were following the grading plan, so that pretty much....

Stephen Tabor: The grading plan, I graded my house exactly to the plan that you approved for me to grade to.

Ed Meehan: That plan was adjusted from the original subdivision to make it fit the land so that you could get a driveway that didn't exceed a ten percent slope. That's what happened.

Stephen Tabor: Right, but you guys approved that plan.

Ed Meehan: We did, but if we didn't approve it, you wouldn't have a house there, because you wouldn't meet the ten percent grade.

Stephen Tabor: But here's my other question, when a town looks at two plans, don't they compare the two plans together and say, wow, there's a radical grade change between the two lines, we have to do something here, rather you approved his plan, you approved my plan.

Ed Meehan: We did exactly what you said, we looked at the subdivision plans, the total grading plan, both lots fit. Two different buyers came in, they changed the grading plan. They changed the location of the house on you, they changed the location of the driveway, and those things get done, and the town is not out there everyday and every week doing there.

Stephen Tabor: Not out there, here at the town, you had the plans here for your review, no one....

Ed Meehan: We're not your contractor, we're not going to be your project managers. If we had stopped your job, you wouldn't have a driveway that you have there now, because the original

driveway you are allowed was not supposed to be where it is. The only way you could get to your house was to stretch that driveway out, lower the slope to less than ten percent.....

Stephen Tabor: Yeah, eleven percent, it was one percent grade over.

Ed Meehan: There were a lot of mistakes on both sides out there.

Chairman Camilli: Okay, I think rather than going back and forth, we have had our two minutes, the only thing we can do is send a letter.

Ed Meehan: Have you talked to your neighbors recently?

Stephen Tabor: I talked to the wife last week....

Ed Meehan: The last time I talked to her she was going to put a fence up.

Stephen Tabor: Yeah, she's in the dark. She said they were going to plant some arborvitae, the town told us we were going to get our bond money back.

Ed Meehan: She really is in the dark then, because the last time I walked to her she was going to put a fence up because she was concerned about her young kids falling down....

Stephen Tabor: Already a kid has, a child up there has fallen off that boulder that you guys told us could not remain half buried, had to be landscaped, that set it on top of the ground, but now it remains half buried, it's a hazard.

Ed Meehan: Well, I don't think it's our fault that a kid fell off the boulder.

Stephen Tabor: Well, no. Not on my property.

Chairman Camilli: Okay, I think we have some.....

Ed Meehan: I don't know if we have a resolution to this, if his neighbor will not go forward with this, then we are between two neighbors fighting over an issue here, and the bond could be just useless. That's where we are.

Chairman Camilli: But we could call the bond.

Ed Meehan: First of all, do we have enough money to do it right now, secondly the liability issues that I mentioned, and you know, we have to make sure we can go on their property without being criticized for trespassing. Mr. Tabor's lot, he's down maybe three or four feet below and it's a really tight area.

Stephen Tabor: It's a six foot grade change.

Ed Meehan: So, whatever the zoning enforcement officer said to him he would do, I would like time to follow up with that.

Chairman Camilli: Okay, whatever, it has been an on-going issue, but this is what happens, we are becoming more of a judicial body than zoning. These issues among, between neighbors becomes problematical for a Commission. I don't really know how we would resolve it, but whatever we can do.

Attorney Sabatini: Mr. Chairman, Public Participation, may I have a second?

Chairman Camilli: Yes.

Attorney Sabatini: Vincent Sabatini, One Market Square. My client called me this morning, he's on Alumni Road, Planet Storage, and he asked me what the status of Alumni Road is in terms of, is it going to be open all the way as a through street, and I didn't know the answer.

Ed Meehan: Okay, the town council, let me go back a little bit, Newington Business Park has petitioned for public acceptance, the Town Council has referred it to Planning and Zoning under 8-24 referral. It's on the Commission's agenda tonight.

Attorney Sabatini: Oh it is, okay I didn't know that, then I'll wait. Okay, thank you.

IV. MINUTES

June 27, 2007

Commissioner Fox moved to accept the minutes of the June 27, 2007 regular meeting. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

VI. NEW BUSINESS

A. **2007 Balf Company Site Plan Update and Statement of Operations 2007-2009, Frank T. Lane, Director of Real Estate & Environmental compliance, The Balf Co., P.O. Box 310903 Newington, CT 06131-0903.**

Frank Lane: Good evening, for the record, my name is Frank Lane, I'm the director of real estate and environmental compliance for the Balf Company Tilcon, here this evening for the bi-annual review of our site operation plans.

The site plan is essentially unremarkable. It shows the continued quarterly development of the quarry area, the ramp shown in the center is being removed, being mined away, another ramp is being mined, entering near the south edge of the quarry. That way, this face, the lower face will move in a northerly direction within the confines of the quarry. The plan shows the additional air separators that were installed last year, we came before you for site plan approval for these two air separators. We create stone sand, which is used in lieu of natural sand in asphalt and concrete, that is what those machines do. This spring we removed five additional buildings from the old Capitol Pipe area, Manafort Brothers is just finishing that up now, so that has cleared an area of the site. The only other thing that is new on this plan is that we are showing the old Capitol Pipe 6 building, that was their big building where they, most of the pipe work, there is an existing concrete plant inside that building, and there is future consideration for re-activating that into a truck loading plant, that would all be done inside the building. We would have to come back to you, because it would require an additional silo for storing dry cement, but that is just a future thought, so we put it on the site plan, so you have some idea of what we are seeing out here in the future. But all that activity would be within the old Capitol Pipe 6 building, and beyond that, the operations continue as they have done for the recent past.

Chairman Camilli: Any questions from the Commissioners?

Commissioner Schatz: I've got a question. On the, you said the old Capitol Pipe building, in the future you might come in for a silo, Capitol Pipe, where do they store their cement? Underground?

Frank Lane: It's a smaller silo, it's an actual cement plant inside there, but there was a smaller silo. If we were to do ready-mix truck loading out of there, we would need a larger quantity and then, also much of the ready-mix concrete meets all of these bizarre specifications, you have to have sometimes two and three different types of dry cement, so you need additional storage capacity to be able to produce this high spec concrete, a lot of it with light weight aggregate for upper stories on buildings and parking garages.

Commissioner Schatz: The reason I asked you that, I worked there at one time, making those pipes. I was lousy at that job.

Commissioner Ganley: Just off hand, just how much longer do you think you will be able to quarry out of that location?

Frank Lane: There is quite a bit of rock going down, it will be for the foreseeable future, probably at least twenty-five years.

Commissioner Ganley: And will you encroach easterly, continuing to encroach easterly, remember Russell Road used to be up along the top of the road.....

Frank Lane: I do know that, that is the Town of Wethersfield, that is an entirely different issue.

Commissioner Ganley: Okay.

Commissioner Fox: Another quick question, the fugitive dust, I remember that a couple of your neighbors used to have a lot of problems with the dust, how is that, is that being handled as well as it was?

Frank Lane: We take huge efforts to control fugitive dust. The walls we've built, the dust curtains, the newest thing that we use is this Doctor Dust system. It's a patented system, it's what they call high pressure, low volume misting. It's special pumps and it actually, at transfer points on the conveyers, above the crushers, it creates a real fine mist which captures those particles, gives them weight and settles them right out of the air. We have a captured street sweeper which sweeps the paved road on the site, all day long, we also have a water truck that fills out of these big detention ponds and they water the unpaved areas and of course if you do that then the truck traffic tracks the fine dust out onto the paved areas, so you have to be constantly running the street sweeper on the paved areas, so both the water truck and the sweeper go anytime operations are on-going, so we take a Herculean effort, and the DEP are regular visitors.

Commissioner Fox: Thank you.

Chairman Camilli: As far as the town receiving complaints, or things of that nature, has it been rather quiet?

Ed Meehan: It has been quiet.

Chairman Camilli: It has been quiet, which is a compliment to you. I'm sure if there was a problem the town would hear about it, that's why I just wanted to put that on the record.

Frank Lane: Your health director comes out annually, he does a tour of the whole site annually.

Ed Meehan: On the plan that is labeled construction aggregate recycling processing and handling area, is that something new?

Frank Lane: No, that's an area that I more clearly identified. That is an area where millings are stored. Millings are what the state now requires us to bring in off the highways when they grind the highway down. When the DOT purchases new asphalt, from us, it has to contain a percentage of recycled asphalt pavement, and that, you mill off the pavement, you bring it in, and then that has to go back into the mix that we sell back to the state. It's part of the DEP's effort for bulky waste reduction.

Ed Meehan: Are you re-processing it in there? It comes in, say Costello, or your guys bring it in off I-91 or I-84 job, you bring it in here.

Frank Lane: We bring in a portable crusher, that actually, and it doesn't have to do heavy crushing, when it comes in off the highway, it's pieces from the size of a desert plate to a dinner plate. What this does, is it runs it all through and makes it all homogeneous size so it can be reprocessed into the new asphalt.

Ed Meehan: It's portable.

Frank Lane: It's portable, yes. It moves plant to plant.

Ed Meehan: Okay, that's what I was wondering.

Chairman Camilli: Any other questions. Thank you very much.

B. PETITION 24-07 475 Alumni Road, Newington Business Park, LLC, c/o Quadrelle Realty Services, One West Avenue, Larchmont, NY owner and applicant, represented by Alan Nafis, A-N Consulting Engineers, Inc., 124 White Oak Drive, Berlin, CT 06037, request for site plan approval, warehouse occupancy, 60,000 sq. ft., I Industrial District. Continued from June 27, 2007.

Wes Clough: Good evening. I'm the agent for the owner for Newington Business Park, 475 Willard Avenue, hopefully will be 393 Alumni Road shortly. This is a follow up to the last meeting that we had for site plan approval. I didn't have all the information that you requested for the window installation on the Shuco space that they are taking over in the building. On the plan you can see there is, they are installing some new windows, these correlate to the interior training rooms that we gave you on the last maps, to let some natural light into those, into those spaces. Shuco has agreed to replace all the existing windows, with new windows as well as what you requested, taking out all the different louvers that are on the front of the building, the big metal louvers, taking those all out and concentrating windows for there too, as well as replacing those ugly red doors on the building here with a nice glass entryway as well. Just a note too, since the last meeting, I don't know if you have been out there lately, the front of the building has been painted as well. That has already been completed as far as phase one, beautification of the building for Alumni Road now.

Chairman Camilli: I know there was a question on the windows, do you want to see what they are or are you satisfied.

Ed Meehan: Well, he gave a satisfactory answer to the question, because based on the prior plan, there was a little of everything on that side, this seems to be more, a little more standardization, a little more uniformity as far as trying to dress that side up, which is going to be very visible to the public. Now, that only goes, that doesn't go as far as the far west end of the building?

Wes Clough: Yeah, this is where the Shuco space ends on the building, from this part of the building now, where ICS is currently occupying space, it's been painted as well, but there are no windows in that area. We kind of did a survey on it. You know, they don't have the same typical type louvers that you see here. They do have, and you can't see on this plan, they have a couple of small lower louvers on the building, but ICS is currently using those as ventilation in the building, because they have updraft fans inside.

Ed Meehan: I believe they are going to be coming to the Commission?

Wes Clough: ICS? Yes. In that, we will address that too, because we do have some plans on the front of the building.

Ed Meehan: So maybe the Commission will get a chance to look at that?

Wes Clough: Yeah, they will, that is part of what Joe is working on, on the next application.

Ed Meehan: Maybe Shuco could add to that sheet some details of the window?

Wes Clough: I can get Shuco to give you some cut sheets on what they are. They are pretty high end. I don't know if you have been over to their facility, they don't make, all their materials are pretty high end window units that they manufacture themselves, and they are going to custom make them for the building.

Ed Meehan: That would be the only thing I would look for, and of course when the construction plans are submitted to the building department, they would have those cut sheets also.

Wes Clough: Correct, and I should have those plans probably finished up tomorrow for the south side.

Ed Meehan: The other part of this, the site plan, the last time I saw it, they had addressed my comments. They added a berm, landscaping, and new trees along the road.

Wes Clough: That was on the last plan, and then we addressed any of those remaining comments.

Chairman Camilli: Okay, I think that answers what we want.
Are you set?

Wes Clough: We're set, I'll get those for you. Thank you.

C. PETITION 26-07 28 Garfield Street, Delta Building Corporation, 269 Main Street, Cromwell, CT 06416 applicant, New Center Corporation owner, request for site plan approval for reuse of 12,528 sq. ft. building for office furniture sales office and display, B-TC Zone District. Continued from June 27, 2007.

Gary Daharsh: Good evening, Gary Daharsh, Delta Building Corporation, on behalf of OFI regarding 28 Garfield Street. If you recall we were here at the last meeting and we discussed first of all the exterior of the building, and we came up with a detailed elevation, an interpretation of what we had discussed and what was suggested and submitted that to Ed a few days ago. I think the comment back from Ed was that he thought it was reasonably close to what you were looking for and asked that we cull out the materials to be used on the plan, which we have done there.

On the site plan, we have added some of the items that we had discussed as well. Very quickly, cleaning up the old bollards, and some of the old condensers around the site, there are notes to that effect. The wall that was here we have changed that to a hedge, a living wall, if you will. Driveway aprons would be removed and reconstructed to meet town standards. We have actually taken the pole lights that were out along Garfield Street, and moved them inboard, because we really feel that's the best way to light our parking lot. We are showing five lantern style lights along the sidewalk which I didn't have the details to match what has been used but I will get that from Ed, and incorporate those into our plan. We have shown the water lines, the building will be sprinkled, it's not currently, so we are showing the new water lines that will be installed and basically that's it. I would ask, we are under construction on the inside and trying to get permits piecemeal because we don't have zoning approval, and Mr. Hobbs certainly won't authorize a permit for the outside of the building, so if the Commission feels comfortable, we are willing to work with staff on any other issues that might come up, but if you felt comfortable, and wanted to move it to Old Business tonight, I would appreciate your consideration of that request. That's it.

Chairman Camilli: Ed, these are technical details if you have any questions, per se.

Ed Meehan: As far as the site plan, I think it pretty much covers what we talked about last time. I had some notes to make it a little more clear exactly what some of the items were to be removed, like the old bollards, the CL&P high intensity flood light, there are a couple of left over I beams for a sign that used to be out there, clarifying that the parking lot is going to be re-stripped, clarify that there is going to be new concrete curbing, and then making sure that there was a note, a note on the sidewalks, it says, maybe you can clarify this, Gary, new concrete aprons at entry type two,

Gary Daharsh: Typical of two.

Ed Meehan: I saw type two and thought bituminous.

Gary Daharsh: No, typical, it's not really clear. Those will conform to the standards.

Ed Meehan: I think with tuning up those notes, the site plan is going to fulfill what is needed on this property. I like the idea of putting the lights up closer to the building, I think it will be better for the people who use it, and it should light the parking lot a lot better and not be too bright for the area, because there is some residential, a little bit up the street from here. Then, the street decorative lighting will be a nice touch, and the elevations, that's what the Commission requested.

Chairman Camilli: I think we did do that, I think this is what we concluded, so everyone is satisfied?

Now, he requested Old Business, but you are not really prepared to write up a motion.

Ed Meehan: I didn't have a motion ready. I could do it with some referencing to this map, and give you some language.

Chairman Camilli: Well, that would be your call, but there is a lot to this, there is too much detail.

Commissioner Ganley: That may not be a good idea.

Chairman Camilli: I, there is too much detail here that has to be taken care of. Maybe if you had alerted the Planner before.

Gary Daharsh: Yeah, well this has all come together, understood.

What I would like to do is hook up with Ed on any of the remaining notes that he would like to see on this plan, and we will get those back to you right away and then see you again in a couple of weeks. Thank you.

Chairman Camilli: We can move this to Old Business.

Ed Meehan: Yes, I do have a question, what color is that drivet going to be? Is that like a cream color, or white, gray?

Gary Daharsh: I guess we assumed that it would be a cream, cameo white or something.

Ed Meehan: I think that will be a nice accent to the brick.

D. PETITION 29-07 2909 Berlin Turnpike, former Krispy Kreme property, ODG-Newington, LLC, c/o Attorney Vincent F. Sabatini, One Market Square, Newington, CT 06111 applicant, WEX-Puck Realty, LLC owner, request for Site Plan approval, 6,000 sq. ft. restaurant use, PD Zone District.

Attorney Sabatini: Vincent Sabatini, One Market Square, Newington, attorney, and this is the site plan portion of the three hearings, also Alan Bongiovanni, and representing the developer, Joe Maggi and Sarah Maggi-Moran. Just talk a little bit about the building. We have the elevations here, the line elevations, and the color rendering. We have the samples, where is the sample board? This is going to be, as we indicated, a 6,000 square foot building and it is primarily going to be brick, and the colors are shown on the sample board. Buffalo Wild Wings has it own unique types of color schemes, and that is what it is. It's mostly brick, some effus board, and the elevations are shown here. We'll talk about those first. I think that Ed had some comments about the façade, I know that Ed said that all brick was recommended, but I'm not sure if, is that what you want, all brick?

Ed Meehan: Well, let me clarify that, because the elevations that were submitted with the application, the keys were different than what you have here. There was a key that had two numbers on it, and that is what I meant by that comment, and I talked with an architect working for your client, and she clarified on the phone, that it was intended to be all brick, but there were two keys, six and two next to each other, and she said it was a choice, I said, I choose brick.

Attorney Sabatini: The take out elevation again, that was used only as, to show one side of the elevation, there is not going to be a take out as we talked about, it's just a reference point that the architect used. It's not going to be a window take out.

On the façade along the Berlin Turnpike, we will put in additional windows and awnings to break up the blank wall, that is not going to be a problem. Screening for roof equipment, I'm not sure exactly what you mean by that, we are going to have the HVAC units up there, and there is going to be some satellite dishes, I think this plan shows some screening. You need more than.....

Alan Bongiovanni: The black and white....

Ed Meehan: What's that, the parapet?

Attorney Sabatini: Yes.

Ed Meehan: And everything is going to sit below that?

Attorney Sabatini: Yes.

Ed Meehan: That's what I wanted to clarify.

Attorney Sabatini: Dumpster enclosure, is going to be brick to match the building and we will use solid gates. So, if we don't have that detail, we will provide that detail.

The other comments, number one, correct the scale bar, the title block, Alan is going to do that.

Alan has a sheet to show you the calculations for ten percent interior parking.

We'll talk about the planting beds and lawns, will be served with irrigation.

The curbing will be concrete, and you will have a plan that will show a snow storage area.

Alan will explain the twelve parking spaces, and we will correct the count.

Now, as part of the application, we did, well, I'll go through the site plan requirements. The area is zoned Planned Development and this is a use, I consider an upscale type of restaurant use that I think that the Commission is looking for. Sat in on hearings on many of the regulations to get rid of the drive through, and this is a restaurant that doesn't require a drive through and I think it's the type of restaurant that you should want on the turnpike. It fits in with the character of the neighborhood. I think it will blend in well with Bertucci's, which is to the south of this site.

The traffic circulation, I think that issue was resolved, when the site was approved in 2002.

Alan will talk about the parking, and how the circulation is going to work.

We have all the public utilities, the signage, on the signage, there is a free standing sign on the property right now, and we have access to put our panel on that, so we aren't going to need another free standing sign, and the signage on the façade of the building, I'm not sure, I don't think we have the dimensions on that, but it's going to comply certainly with the regulations of the code.

The safeguards to protect adjacent property again, we have the layout pretty much all set, we're not really changing the layout, except that the building is going to be a little bit bigger. The building fits in with the site. The site will be used in an orderly fashion, the driveway, the location and the parking.

Now, in terms of what we have asked for, is a waiver of the thirty-five foot front yard green space. If you remember, on the old plan which Alan had up here before, the Commission, this is the thirty-five, actually, forty point five, thirty-five foot if the building line is here. So, and you had approved this driveway, which went into the thirty-five foot wide green space, and that is in existence right now.

Now this particular site has a lot of green space in front. It has approximately forty feet of state right of way, which is, can't be used, can't be built on, plus it has more green space here, another twenty feet. So what we propose is to extend this drive, rather than having it go, right now it goes along side the northerly boundary, that's going to be eliminated. That is shown here. This light green, the blue and light green is the old, it's going to stay the blue and be this shaded gray area. So it will connect up with this present drive. That does creep into the thirty-five foot green space, but if you look at it, it is for access management, because you are accessing the site, and this we think is the safest way to access the site for the particular use and into the parking lot. It also provides access to the other building that is on there, that's why I think that it meets the access management. Alan will talk more about that when we talk about the green space. It also is in keeping with Bertucci's which I don't think has the thirty-five foot green space, but it has a wide buffer area that is a state right of way. It is also in keeping with this side of the Berlin Turnpike, where down the road, you have TGIFridays, where the Commission waived the thirty-five foot green space because again there was a wide green buffer area already existing as the state right of way. So I think that it is a fair and reasonable request to make, and I would urge the Commission to approve that. I think that that was maybe the only question that Ed had that should be talked about a little bit, but I'd like now to turn over to Alan so he can explain the technical part of the site plan and answer some questions.

Alan Bongiovanni: Thank you. For the record, Alan Bongiovanni, 170 Pane Road here in Newington. We have gone through several iterations of design on this site. Our clients came to us with this user, Buffalo Wild Wings, their footprint is 6,000 in that configuration, and how could

we accommodate them? We believe the building fits nicely on the site, it gives a good presentation to the building and its location. It's on the northeast corner of the property, it allows us, the position of the building allows us to maintain the integrity of the existing parking lot, with minimal impact to the bank building. If this is to be approved, during construction we have as we all know, a fixed ingress point at the northeast corner and then we have our ingress and egress at the northwest corner on Main Street. The way to access this site would be to take the right turn in and go southbound and then traverse left going along the front of the building and then entering into the parking field. We again, I said, we looked at this in several different ways, several different configurations, and this is what we believe is the best fit for the site. We believe that the location of the building, and the parking will work very well as Mr. Sabatini spoke, this does infringe upon the thirty-five foot setback area of green space, but it's not uncommon on the Berlin Turnpike. It's not uncommon on the site. The light gray represents what exists today, this is what was approved, we would be again, extending that driveway and it's location. We have designed it at eighteen feet so that in the case of a car break down, you would still be able to by-pass that car and not cause a traffic jam in that location. We positioned the building so that dumpster access is located through here, the trucks would come out and exit, and all service would be brought in through a ramp in this location.

Service for this restaurant as far as deliveries and things, are done seven to eleven in the morning, as most every other restaurant presentation that I have done before this Commission. Restaurants don't allow deliveries during business hours. They have to come in early in the morning, so that they don't conflict with the patrons, they don't conflict with people parking in the lot, and this should accommodate their deliveries very easily.

The project is serviced now, or the site is serviced now by MDC sewer and water. We would propose to provide sewer and water service through the back of the site out to Main Street. There are existing mains in that location. This would be a fully sprinkled building. The storm water drainage system is an existing system on site, the detention basin here, we have pre-treatment of storm water already on the site, sized for this development. We submitted a drainage report and I know preliminarily Mr. Ferraro had reviewed and had minimal comments, we haven't received anything in writing yet, but I believe that he is in agreement with our findings that the system in place is adequate to handle the minimal five, ten percent increase in impervious area. The site when it was designed originally several years ago, was oversized. So that we are comfortable, and I believe the Town Engineer will concur that the drainage system will function as it has.

As Mr. Sabatini said, going through Mr. Meehan's comments, there are some technical things, notes and things, curbing, that we will address. Mr. Meehan's second page, there were a couple of other comments that Mr. Sabatini missed. Replacing some trees along the Citibank drive, that either died or were removed, we will do that.

Number ten, describe any efforts to improve site entrance visibility and turning radii from the Berlin Turnpike into the property. The applicant has, through Mr. Aveno and their own efforts been in contact with the state about doing some maintenance in this area. This is the actual tree line now. As you all know, as you drive southbound on the pike, because of the existing vegetation this sneaks up on you. Preliminarily, and nothing concrete, the state I think is willing to work with the applicant to probably cut that vegetation back, probably create a lawn area, it may even be the applicant's perpetual maintenance, to mow that area, but that is something that is as important to the client as it is to the Commission.

The last item, has consideration been given to the pad footprint of 5160 that was approved prior. I as a Planner, that was one of the first questions I asked the applicant, the developer, you know, would they consider a smaller footprint, would they consider a different configuration of building, and although they did make concessions on the configuration of the building, the square footage is what they require. They have evolved over several years to 400 and something stores now, they have a lot of experience and based on their studies and their demographics, this is what is required. If they were to build something smaller than this, they may very well go the way of the former occupant of this building, they will outgrow it, and then you will have a building that

wouldn't be suitable for most tenants without a serious reconfiguration. I think that is in a nutshell. The parking counts we have 103 spaces, minimum required is 96 spaces for this site. We have exceeded the parking criteria because that is the wishes of the tenant. Several of their market areas approach higher numbers than our regulations call for so they asked us to maximize the parking count. That is why we are in this location. Part of the increase in parking from what was approved before are these dark areas reducing a couple of islands here, and then providing parking in this area.

One of Mr. Meehan's comments was, how do you achieve the green space? When the previous application was a little over ten, because this was adjacent to the building, and only parked on one side, we weren't allowed to take credit for that island in the previous calculations. I think after we talk about it, you will agree that this is, should be included.

Ed Meehan: I don't agree.

Chairman Camilli: You will have to talk to staff more about that. Where is that patio? Is it on the north side?

Alan Bongiovanni: That is this location here.

Chairman Camilli: It's on the west side.

Ed Meehan: It's in the road.

Alan Bongiovanni: The old road, correct.

Chairman Camilli: One of the concerns that we heard tonight was about the patio, that's the side that is near the area where the people are going to hear it. I was just concerned about that.

Alan Bongiovanni: If I could Mr. Chairman, and I think it's probably explained a little bit better by the vicinity map that I had up.

Chairman Camilli: Where are you deliveries going to be, the deliveries are in the same area.

Alan Bongiovanni: This is the delivery location, the door is on the north side of the building. The delivery truck would come into the site, park and then go up a ramp. The hand trucks service this building, they are not loading docks.

Chairman Camilli: And that is the area where the patio is.

Alan Bongiovanni: The patio is over in this area, and it's fenced and enclosed.

Chairman Camilli: And where are the deliveries going.

Alan Bongiovanni: Deliveries are going into this door here. This is on the north side of the building, and that is the edge of the patio, so deliveries would come in through this area here.

Commissioner Ancona: Could I just ask a quick question? How does the garbage truck get in there? Does it back all the way in from Main Street? How does it do that?

Alan Bongiovanni: The small dumpsters are front loaders.

Attorney Sabatini: Like CVS. On Main Street.

Alan Bongiovanni: We've made this a double lip so it's about a thirty foot wheel base truck that comes straight in, they open the gate....

Commissioner Ancona: I thought he couldn't access from the Berlin Turnpike.

Alan Bongiovanni: There is a sign up there, and it was part of the approval from the state, No Trucks. The intention was, and I know DOT is across the street and has monitored this, they don't want like happens in front of Dunkin Donuts, the tractor trailers coming in the front to a donut shop like they park on the Berlin Turnpike down the street. That was the intention, we believe that we will be successful in this approach, and this is something that the state will have to approve if we get permission.

Talking about the location of the patio in relation to the residents, the two people who spoke in opposition, Sliva, and I forget the other woman's name....

Ed Meehan: Dobowski.

Alan Bongiovanni: Dobowski, there is the Dobowski home.

Ed Meehan: No, it's across...

Attorney Sabatini: The Dobowski home is on the other side of the convalescent home.

Alan Bongiovanni: That is in excess of five hundred feet from the front door, this is a fairly heavily wooded area. The location that they experienced a lot of noise, I think was more unbuffered than what we have here. This is close up against a mature growth of trees, it's only going to be used in the summer, the warm months, so there is a good natural buffer of probably a couple of hundred feet at least in this area that is going to help buffer that, any sound that may come from there. The....

Chairman Camilli: Is there going to be any music?

Attorney Sabatini: Outside, no.

Alan Bongiovanni: This is not a live band place, it's an upscale restaurant.

Chairman Camilli: I just wanted to get it on the record. Any questions?

Commissioner Ganley: Relative to the parking, it's dual use in some instances because we have the bank there, okay, so if the bank.....

Alan Bongiovanni: On the parking requirements for the bank, they require twenty-six spaces.

Commissioner Ganley: Okay, which are located?

Alan Bongiovanni: Twenty-six spaces would be along this area, and/or this area. The intention is really to work with the bank to have these dedicated as employee spaces, so they have reasonable access to the building, but leave most of the center open for customer spaces. The bank requires twenty-six spaces, the restaurant at about 3500 square feet of public space requires seventy spaces, that would total ninety-six, we are proposing one hundred and four spaces.

Commissioner Cariseo: You call this upscale?

Alan Bongiovanni: Yes.

Commissioner Cariseo: What are you calling Ruth Chris?

Alan Bongiovanni: High end.

Commissioner Cariseo: I was just curious.

Chairman Camilli: Any other questions? Ed?

Ed Meehan: Well, there are some things on the staff report I think that are technical and substantive because if the Commission doesn't agree with what the applicant is presenting, they don't have a function site plan. The first one being the ten percent green space. I think a map of those areas should be provided, I'm very curious how you could have, as my notes say, you increased the bituminous pavement by five to ten percent, and you reduced the green space, but you still come up with more green space than you had with Krispy Kreme, so if there is an interpretation issue, I would think the Commission is the appropriate body to make that call. I would say though that I don't agree that the green space behind Krispy Kreme should be counted toward your ten percent. I don't see any functional use of those parking spaces, angled parking spaces on the drive through up to the bank, for the bank employees and or the patrons and employees of the restaurant. That is an area that does offer a little bit of green space, offers some buffer to the neighbors across the street in the convalescent facility. You have to cut out twelve spaces so you loose four or five trees in there, that are maturing very nicely. I don't think those spaces are needed. So I would be happy to look at your map, and I will report to the Commission on it.

The second area is this thirty-five foot green space in the front yard. Bertucci's doesn't meet it because it came into the regulations after Bertucci's was constructed. There are a lot of places on the Berlin Turnpike that don't meet it because they are older, but since it has been in the regulations, the only one I think that has been given any latitude is Friday's because of the whole nature of that parking area down there and that location. The Commission went around and around with Laz-E-Boy down the street from this and I think we worked out a reasonable compromise on that. They showed parking there, but it was deferred. I don't agree that this is access management. The typical classical example of access management is defining curb cuts, intersite, interproperty driveways, you know, reducing left turn lanes, this is basically a driveway across the front of the site because the driveway behind the building doesn't work. I mean, that's what it is! I don't see it as access management, so I don't know that it fits on any of the waiver provisions. That's very blunt, that's the way that I see it.

Chairman Camilli: Well, it will be an interpretation by the Commission. I think they stated their case and I think we have discussed whether or not that is access management or not, that would be something that the Commission can decide. What other issues?

Ed Meehan: Mr. Bongionvanni had, and should have gotten by now the Town Engineer's report that was sent to you on July 6th, and maybe.....

Attorney Sabatini: We didn't get that report, not in writing. I didn't get it.

Ed Meehan: Did you pass it on to your engineer?

Attorney Sabatini: He didn't get it either. We were talking about that outside that we hadn't gotten a report.

Ed Meehan: Most of the engineering and drainage calculation that WMC should look at. There are a couple of comments in there that are important. One is the turning radius for new fire apparatus, now that, I'm not sure that pertains here because the fire department may have another way to approach this site, if they come in from Main Street, so I just call that to your attention. But fire safety is always important. But the other one, and I did talk to the Town Engineer about it, where the traffic coming out of this driveway across the front of the site could merge or head into traffic coming out of the bank drive through. It's right at that critical point, right there. We talked about it at staff in the office, I don't see any alternative to just leaving it as it is, as you designed it. They raised the question, and maybe you have another thought on it, but you know, a lot of signage, a lot of reconfiguration of those island is really not going to solve the problem. I think it is what it is. I don't think the bank generates a lot of drive through traffic, but that is my opinion.

Attorney Sabatini: Can I just say, the bank does not have additional drive through. They have an ATM machine and that is all. Matter of fact, when they got approved as a bank, they had nothing. They abandoned the drive though, there were two drive throughs that we approved, they abandoned them. Since then, they have put in an ATM machine only, so they don't have drive through service, so I submit to you that you are not going to have the additional queue line build up for the drive through window, because nobody is using that. That bank really is not a traditional consumer type bank, it's more of a financial center. I know, I have been there and done business with them, and that is the way that they sort of market themselves. They're not like Webster Bank.

Ed Meehan: I accept your explanation on the ATM.

Attorney Sabatini: The traffic coming out of there is minimal.

Ed Meehan: I just want to call it to your attention. These are not necessarily engineering comments, they are more related to planning and fire safety and movement on the site. I do feel strongly about that ten percent green space. I looked at the map, and I really don't know why you need those twelve spaces over in that side.

Attorney Sabatini: Well, I can explain. In terms of the ten percent that's a mathematical calculation, an engineering calculation, if we satisfy, we satisfy. Those spaces are needed, the requirement for this tenant, for this use, is to have a little more parking than is actually needed, and I think that is why the spaces are there. The bank has very little use, actually, practical use of the spaces so they are for the restaurant use, to be successful they require the parking so I disagree with you Mr. Meehan as to whether those spaces are functional or not. I think they are functional especially in light of the fact that you don't have the traditional drive through. You are not going to have people queuing up north of that building to somehow obstruct the use of those parking spaces. They are real parking spaces and they are going to be functional. I think they are functional parking spaces, then the green space that is adjacent to that parking space becomes part of the calculations for the ten percent. I also disagree with your assessment on the access management. To me, access management, if this was a site with one building, I think probably your argument might be correct, but we have two buildings here, really two different uses. We do have access, we are required to have access from the Berlin Turnpike, a functional access as part of the PD Zone. That is why it was approved that way. You know, we are not invading the entire thirty-five feet, we have plenty of grass area over here that's still within the thirty-five feet. If the Commission wants more trees put on the property somewhere, I'm sure we can do that, but this is an access point to this property to serve this use, and this use and intra-access between the two uses. So, I mean, access management, I don't think it means that you have two separate properties and you have to connect the driveways. Just like when we were talking about Laz-E-Boy, we had common driveway rights with the Sphinx Temple and with the Grantmoor and with

Laz-E-Boy. Access management meant that somebody could come into the driveway off the turnpike, and access Laz-E-Boy, the Grantmoor or maybe the Sphinx Temple. It didn't have to mean that we had to access Wal-Mart next door. So access management means that you are accessing the building within the site, and I think that it fits that definition, and certainly I think the way the regulation is worded this comes within the discretion of the Commission to consider it. When you look at the site itself, I mean, there is green space everywhere. We're not going to be an island, we're going to have more green space than Bertucci's. I think the purpose of the green space initially was to prevent parking in the front yard of uses on the Berlin Turnpike. I think that was the primary consideration when the Commission passed that regulation. We're not going to have any cars parked in the front, the cars are going to be parked in the back. You are not even going to see the parking. You are going to see a nice building, two nice buildings.

Ed Meehan: I know the Chairman doesn't want me to get into a debate, but I would call your attention to what access management is defined as in the regulations, and I also sort of follow up on what Commission Ganley said, this could be considered shared parking between two tenants that don't have competing hours, so your client has to meet a parking count, I think if you look it in some respect as shared parking you can save some of the green space you are trying to talk about, not lose the four or five trees that are there and still meet a parking count without cutting out that whole area.

Attorney Sabatini: We certainly can replace the trees. I drove by there today and I looked at it, and there are a lot of places to put trees, because actually on the Main Street side right now there are no trees so I think we can do enhanced landscaping there to meet everyone's objective (inaudible) lose a good use and a good tenant.

Alan Bongiovanni: One of the other things, if I may suggest to help soften the look of the driveway here we have about twelve feet along this area where we could you know, raise the elevation to put a little bit of a berm and landscape it, so that visually as you drive down the Berlin Turnpike, you are going to see landscaping as opposed to a strip of pavement which I think may go a long way to help the appearance.

Chairman Camilli: Okay, I have another question. I want to address this just to the Planner. This Special Exception condition stipulated the 5160 square feet retail pad. They are over that. Are we constricted by that or can we, this was an approved site pad for that square footage. Now what's the Commission's, which way can we go, can we just ignore this 5160 because they need over 6000 or whatever square feet.

Ed Meehan: They have to come in and, what they are doing tonight, and get that modified. They are modifying the site plan.

Chairman Camilli: They are modifying the site plan.

Ed Meehan: The stipulation in the Special Exception was, maybe I didn't make it clear in my writing, that they couldn't use that 5160 square feet for a period of six months after Krispy Kreme opened, so that the Commission could evaluate the parking and the traffic, and as it turned out, within six months Krispy Kreme was going out of business, not that it had anything to do with the site plan.

Chairman Camilli: But, you didn't answer my question. My question is, there is a retail pad site there and whether or not that pad site could get to that 5160 was dependent on Krispy Kreme's business, that's the way when I was on the Commission, that's the way I interpreted it. In other words that pad site although we approved it, it would be, it was conditional on what Krispy Kreme generated there in terms of parking and so forth.

Ed Meehan: Yes.

Chairman Camilli: Okay, but was the maximum of 5160 is what I'm getting at now. In other words, the 5160 was an approved pad site for that square footage, and was to be looked at, as I remember the Krispy Kreme application whether or not it would even be a pad site, but it wasn't supposed to be any larger than that.

Ed Meehan: I would have to check the parking count, because that 5160 could have been backed in by the parking. You couldn't use that pad site unless you came back to the Commission showed there was going to be a retail use, compatible with Krispy Kreme and that application couldn't come back to the Commission for six months. That was a condition of the Special Exception for Krispy Kreme.

Chairman Camilli: There was an approved pad site for 5160 square feet.

Ed Meehan: Yes.

Attorney Sabatini: With all due respect, it was all conditioned upon the Krispy Kreme use, that is why it was decided that it was, because the Krispy Kreme use determined the intensity of what happened.

Alan Bongiovanni: Krispy Kreme was expected to be an extraordinary traffic generator. We know, the first two three months it was, then it petered out. This is a copy of Mr. Camilli's signature on the approval box, this is page three of the original site plan. Parking schedule required for the retail building of 5160 square feet, 31 parking spaces. For the Krispy Kreme, 20 parking spaces, 20 spaces per 1000 square foot of floor, they only had 1000 square feet of public space. They only required fifty two spaces, we provided seventy-nine. So we had done something as simple as, just to illustrate in response to your question, we put (inaudible) in the building, added 800 square feet, we could have shown that at 6000 at the time.

Chairman Camilli: Maybe it wouldn't have been approved then, with that square footage.

Alan Bongiovanni: You may very well be right, what I'm trying to say is there is criteria in the regulations that says that this can't.....

Chairman Camilli: I think we were concerned about how big of a building because, as I recollect there was talk of office, and we wanted to restrict....

Ed Meehan: It was restricted to retail, there is a note inside that retail footprint that refers to that Special Exception condition.

Chairman Camilli: Yes, absolutely.

Attorney Sabatini: The conditions have changed now because actually you don't have the building that was approved for a restaurant used as a restaurant. That is why we have the site plan modification application. We're asking the Commission to look at the site in light of the different building. I don't think the approval of the building was something that was cast in concrete, that the building could never be any larger than that.

Chairman Camilli: Well, that was the question that I was asking the Planner. Okay, well, I'm just a little fuzzy in my own mind if we had to stay within those parameters or not, because there was concern about a building going in there that was too large for that particular area, and how we came up with 5160 I don't really remember how or.....

Ed Meehan: I think the applicant came up with, trying to fit it in that triangular piece.

Chairman Camilli: The applicant came up with it?

Alan Bongiovanni: It was, it was a generic building at the time.

Ed Meehan: That's what I thought. Now, I also point out that meets that 35 foot front green space very nicely.

Attorney Sabatini: That building did.

Chairman Camilli: Okay, I think we know, just as long as the Commission members are aware of what is going on here, we heard both sides of what is, and what isn't access management.

Commissioner Schatz: The question that I have sitting here, the right of way in, that is approved now, would it make, and I'm not an engineer and I don't know their business and we are pro-business, it's not that we're not, but wouldn't it be more practical for the outside dining to be on this side of the building, toward the turnpike, rather on the other side, where it is going to be noisy. You said, put a berm in, well, these people want people to see their building, I mean, they are in business to make money, they are not here playing games, but the point is, it seems like the, to one o'clock being open, the patio would be better on this side of the building, and the right of way into the site would be where it is now. That's just a....

Chairman Camilli: That's a very good observation.

Alan Bongiovanni: If I could, we did look at that. We did look at location, because of the traffic, a certain amount of truck traffic as well as regular passenger vehicle traffic, it's very, very noisy on the Berlin Turnpike. Other areas, maybe even Main Street would be more suitable to having a patio in front. This was their desire, to help screen the noise from the traffic and that is why this location was selected.

Chairman Camilli: And then you have the neighbors on the other side, we have a problem....

Commissioner Schatz: You have a convalescent home there.

Chairman Camilli: We have the convalescent home on that side and when I asked my question, it went to that particular....

Commissioner Ancona: Forget all of that, you have the mosquitoes from hell, that's what is going to nail that factor.

Chairman Camilli: Any other questions?

Commissioner Ganley: Is it still open?

Ed Meehan: You are going to get me your green space map?

Alan Bongiovanni: Mr. Chairman, there are a number of comments and questions that have come up and we would like to discuss.....

Chairman Camilli: Yeah, well you know, work something out. There's, I mean, the Commission has the right to waive the green space, or not, and that is what I am saying, how much do we have to say do we have with this 5160 in terms of what was approved before, and I heard both

sides of it, I heard their side of it, I'm not sure that we can hold them to that or not, to the 5160 to be a deal breaker or not, because they seem to need a 6000 square foot building, but I'm not, in my own mind the way that was done, I thought I was concerned about the size of the building that was going in there, so that is another consideration. The ambient noise from the patio that's another consideration. We have several issues and then, your issues. Most of the site plan issues have been taken care of.

Ed Meehan: The ten percent green space is not waivable. They have to meet that, and I think they have to give us a reasonable interpretation of what the ten percent green space is in light of the changes that have been made since the Krispy Kreme site plan. The thirty-five foot front yard green space is waivable, and there is some criteria in the regulations for the Commission to look at. The applicant is putting forth the argument that (inaudible.) It could be yes or not. The shared parking is something that you can also consider on this site, just because they say they have to have twelve spaces doesn't mean they have to have twelve spaces, that could affect the green space count.

Chairman Camilli: Well, I'm also concerned, they did say they would put in some trees and whatever, you said there were some trees that were maturing there on the side, near where the home is there, they are taking away some of the screening. So that is also a concern, so these are some of the things you can work out. Rather than going around and around, you can work it out with the Town Planner, whatever, we will have to make a decision, but I think these are the issues that are confronting us at this point, I don't know what else, unless you have anything else.

Alan Bongiovanni: No, we appreciate the opportunity to work with staff, and we know from other applications that there are going to be things that we agree on, and other things we don't.

Chairman Camilli: And it's the Commission's job to interpret what those are. I just wanted to get them so I'm not only clear in my own mind, but so is the Commission.

Attorney Sabatini: Thank you.

VII. OLD BUSINESS

A. PETITION 22-07 2237 Berlin Turnpike, Bianca Signs, Inc., attention: Paul Bianca, 99 Newington Avenue, New Britain, CT 06051 applicant, McBride Properties, Inc. owner, request for Special Exception Section 6.2.4 Free Standing Sign, B-BT Zone District.

Commissioner Fox moved that Petition 22-07 2237 Berlin Turnpike, Bianca Signs, Inc., attention: Paul Bianca, 99 Newington Avenue, New Britain, CT 06051 applicant, McBride Properties, Inc. owner, request for Special Exception Section 6.2.4 Free Standing Sign, B-BT Zone District be approved based on design prepared by Bianca Signs and presented to the Commission at public hearing, June 27, 2007.

The approved sign shall be double sided "V Shaped" internally illuminated, height not to exceed 8' by length of 12' each sign face.

Prior to the placement of the new sign zoning and building permits shall be secured.

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

Chairman Camilli: Motion passes unanimously.

B. Petition 19-07 Newington Town Plan and Zoning Commission, applicant, proposes amendments to the Zoning Regulations affecting the following sections. Hearing continued from May 23, 2007.

1. Section 3.11 Special Exceptions Permitted in B-Business Zones

Section 3.11.3 Sale, service, rental or repair of motor vehicles. "Delete"

2. Section 3.12.4 Buffer

Amend to add the following clarification "when the zone boundary follows the centerline of the street the 25 foot buffer shall be measured from the street right of way within the residential zone"

3. Section 3.12.A Town Center Village Overlay District

Section 3.12.A 4 (c) Add monument ground signs shall be colonial in design made of brick and shall not exceed a total height of 12 feet."

4. Section 3.13 Special Exceptions Permitted in B-TC Business Town Center Zone.

Section 3.13.1 Residential Buildings (c) change density from 1,000 feet of land area for every dwelling unit to "2,500 square feet."

5. Section 3.15 Special Exception Permitted in B-BT Business Berlin Turnpike Zone.

Section 3.15.4 Drive through restaurant window service. "Delete."

6. Section 3.16 Uses Permitted in I Industrial Zone.

Section 3.16 1 (F) Auto Related Uses "Delete" and move to Section 3.17 to clarify auto related uses will be regulated by Special Permit.

7. Section 3.16.3 Buffer

Amend to add the following clarification "when the zone boundary follows the centerline of the street the 25 foot buffer shall be measured from the street right of way within the residential zone."

8. Section 3.17 Special Exceptions Permitted in I Industrial Zones

Section 3.17.2 Retail stores "Delete"

Section 3.17.4 Retail stores over 40,000 sq. ft. "Delete."

9. Section 3.18.4 Buffer

Amend to add the following clarification "when the zone boundary follows the centerline of the street the 25 foot buffer shall be measured from the street right of way within the residential zone."

10. Section 3.19 Special Exceptions Permitted in PD – Planned Development Zones.

Section 3.19.2 (B) (2) Site area amend to add such computation of total number of dwelling units permitted on a site will be based on the usable area of the site.

When in the opinion of the Commission, geologic or topographic conditions, inland wetlands and flood hazard areas render any portion of the site unsuitable for use by the residents of the development, such portion of the site will not be used in computing the total number of dwelling units permitted and shall be set aside as conservation open space.”

11. Section 3.20.5 Buffer

Amend to add the following clarification “when the zone boundary follows the centerline of the street the 25 foot buffer shall be measured from the street right of way within the residential zone.”

12. Section 3.21.3 Buffer

Amend to add the following clarification “when the zone boundary follows the centerline of the street the 25 foot buffer shall be measured from the street right of way within the residential zone.”

13. Section 4.4 Modifications to Height, Area and Yard Requirements

Amend to clarify

Section 4.4.5 (A) Projections

“Usual projections such as sills and cornices may extend into any required side yard not more than 12 inches. A chimney may project not more than 2 feet into a side yard but not within 5 feet of a side property line. A porch or hatchway may project 3 feet in the rear yard. A porch projection shall be limited to a landing platform not larger than 24 square feet, not more than a 3 foot projection into the front yard setback.”

Table A: Schedule of Height, Area and Yard Requirements Non Residential Uses amend to clarify reference to Accessory Building in Non-Residential Zone to add “(C) at least 5’ minimum distance from lot line.”

14. Section 5.3 Procedures and Requirements for Site Plans.

Section 5.3.4 (C) add “8. Inland Wetland and watercourses showing 50 foot setback area and 100 foot upland review area.”

Section 5.3.4 (E) add “dumpster enclosures, and mechanical equipment.”

15. Section 6 Special Regulations Section 6.1 Off-Street Parking and Loading Regulations.

Section 6.1.1 (B) Parking Spaces for Buildings Used for Residences. Amend to clarify “All parking of vehicles shall be on the surfaced area not on the lawn.” The surfaced area shall not exceed 50% of the front lawn, the area between the street line to the front exterior wall of the residence.”

16. Section 6.2 Signs

Section 6.2.2 Residential Signs (E) Amend to read "Residential uses approved by Special Exception in the R-12, R-7 and RD Zone, ground signs not more than 75 square feet in area on one side, not more than 150 square feet in area on both sides and located within the building setback lines shall require Special Exception approval of the Commission.

Section 6.2.3 Non Residential Wall Mounted Business Signs

Section 6.2.3 (A) 2 Amend to clarify "Building frontage shall mean the side of the building with a public entrance facing the abutting public street.

Section 6.2.4 Free Standing Business Signs Section 6.2.4 (A) Amend to clarify "only one (1) free standing sign may be permitted per property.

Section 6.2.5 (B) Amend to delete reference to "approval by Traffic Authority."

17. Section 6.4 Removal of Earth Products

Section 6.4.1 General Amend to add "No removal of any earth products or grading for site development shall commence until a building permit for the project has been issued. This condition may be waived by a two-thirds vote of the Commission."

Section 6.4.2 Special Permit Amend to read "The Commission may grant a permit."

Section 6.4.3 Conditions (B) Amend to require slope limits "of one foot of vertical rise in 3 feet of horizontal distance."

Amend to limit removal "within 50' of a property line unless waived by a two thirds vote of the Commission.

Section 6.4.3 Conditions (D) Amend to "prohibit the processing of any earth product except when permitted by the Commission" and approved by a two-thirds vote.

Section 6.4.4 Approval Amend to require the filing of plan of the operation and site restoration with the Town Engineer rather than Building Inspector.

18. Section 6.5 Filling of Land

Section 6.5.2 Special Permit (C) Amend to delete "grading or removal" Amend to add requirement "that no filling of land shall commence until a building permit for the project has been issued." This condition may be waived by a two thirds vote of the Commission.

Section 6.5.4 Approval Amend to require the filing of site plan of filling operations with Town Engineer rather than Building Inspector.

19. Section 6.7 Interior Lots and Single Family Homes.

"Delete."

20. Section 6.11.5

Amend to add the following clarification "When the Zone boundary follows the centerline of the street the buffer shall be measured from the street right of way within the residential zone.

21. Section 6.11.7

Amend to reflect P.A. 06-133 changes to Section 14-54 CGS effective 6-6-2006, which delegates the approval of location for dealers and motor vehicle repairers to the Planning and Zoning Commission rather than the Zoning Board of Appeals and to delete reference to Section 14-55 CGS which has been repealed.

22. Section 6.13 Accessory Apartments

"Delete"

23. Section 7.4.8

Delete and insert the following new standards

Maximum earth slopes shall not exceed 3 to 1 (3 ft. horizontal to 1 ft. vertical.)

Where steeper slopes are needed retaining walls are required. If the difference in grade at the property line exceeds 3' then a retaining wall with a fence on top of the wall is required.

Where a retaining wall is proposed it shall be topped with a suitable barrier or fence with a minimum height of at least 4 feet. The back of any retaining wall shall not be closer than five (5) feet to an adjacent property boundary line.

Where the total height of the retaining wall exceeds 4 ft. or retains unbalanced fill, design calculations by a Registered Professional Engineer must be provided for approval of such wall.

24. Section 7.4.29 (c) Filing of Approved Plans

Amend to read: All data must be submitted in Connecticut State Plane Coordinate System, North American Datum 1983 (NAD 83), Units U.S. Feet."

25. Section 8.1.4 Dealers and Repairers

Certificate of Location Zoning Board of Appeal" delete and assign to Zoning Commission per Public Act 06-133 effective June 6, 2006.

Commissioner Ganley moved that approval of the Zone Amendments presented by the Commission at the public hearings, May 23rd, June 13th and June 27, 2007 be postponed to July 25, 2007.

The motion was seconded by Commissioner Fox.

Chairman Camilli: We have a motion and a second and what I would like to do tonight is to discuss these, just go through these, and see where we are in terms of how the Commission feels on the motion, any suggestions, or if you have objections, we can hear them, okay. So we will just go very quickly, Section 3.11

Commissioner Ganley: We have to get the motion passed don't we?

Chairman Camilli: Well, we're discussing right now, we're just discussing the motion, we're going to postpone it, it's going to be postponed I hope with a vote, but right now we are discussing the items in the motion. Because the next time, I think the next meeting we are going to vote on these and I want to get it on the record if there is any feeling on any of these.

Commissioner Ganley: Can we list it as consensus as we work through these?

Chairman Camilli: Well, I didn't know how else to do that, if anyone has any objections to Section 3.11. I wasn't going to read them, just go through them. If anyone wants to say anything. Section 3.12. 4, the buffer; 3.12A; 3.13; 3.15; 3.16; 3.16.3; 3.17; both those sections there, 3.17.2 and 3.17.4; 3.18.4, the buffer; I'm just assuming with this, that you concur with these, Section 3.19; Section 3.20.5; Section 3.21.3; Section 4.4; Section 5.3; Section 6 Special Regulations; Section 6.1 Off Street Parking and Loading Regulations; Section 6.2, Signs; Section 6.2.3; Section 6.2.3 (A); Section 6.2.4; Section 6.2.5. Seventeen is Section 6.4 Removal of Earth Products; Section 6.4.1; Section 6.4.2; Section 6.4.3; Section 6.4.3 again (D); Section 6.4.4 Section 6.5 Filling of Land; Section 6.5.2; Section 6.5.4; Section 6.7 Interior Lots and Single Family Homes,

Just to talk very briefly on that, that was one of the more problematical areas that we considered, we had, as we do interior lots, you know what happens, what we have before us right now. One of the reasons for taking these out of the regulations is that the amount of protest generated by neighboring and abutters is something that puts this Commission in a very, I don't know what the word is....

Commissioner Fox: Contentious?

Chairman Camilli: Contentious situation, and we end up being arbitrators and judges, and I supposed we are to a degree, but like with the other application, they are going for litigation and it leaves us in a very poor situation, so, and we had some bad experiences, so I think that it best that it be deleted. I don't know if anyone else wants to make any comment about that.

Commissioner Schatz: The only comment that I would have is that I think this tightens it up for us actually, and the only other comment is that, in going over all the minutes and everything else on this, the Chairman has over-exceeded himself in keeping it open, so the public can come in and comment.

Chairman Camilli: Okay. Section 6.11.5; Section 6.11.7; Section 6.13 was another contentious deletion here. We had some testimony on this, I don't know what the feeling is of the Commission, we never really discussed it ourselves. I did, and gave the public some comments. Any discussion, I know that you.....

Commissioner Kornichuk: I'm definitely against deleting this.

Commissioner Ancona: By deleting it, does that take the latitude away from this Commission, are we saying, that's it, accessory apartments are gone?

Chairman Camilli: Well, essentially what it does, it does take it away, however, however, it doesn't preclude someone from putting an addition on a house, what it precludes is a kitchen and another apartment in a single family neighborhood. So, we were concerned about it, and again, for the same reason, we've had some experiences, not that many, but anytime it happens it's like, it's okay for the person who is doing it, but the people say, you know, you are devaluating my property, it's a single family neighborhood, you know, this kind of thing, and again, the Commission is put into a position that we can understand why somebody would want to do it, but then it's like protecting the neighbors, who say, well, I don't want a two family in my neighborhood. So I look at sections at town, where the lots are big enough to put these additions on, and I say to myself, I don't know if I would want it. And what happens, the people die, the mothers or fathers who go in them, as a separate unit, and then they rent them out, and the people start complaining about it. That's where we get the feedback. Now that's, I mean, you can argue the other way and say, it's affordable, and there is another argument for it, no doubt about it, but I think, if they want to put somebody in, and they have the room to do it, well, then build a bedroom, they don't necessarily need a kitchen, they can use the kitchen of the kids, so, you know it's not saying they can't put an addition on the house.

Commissioner Ancona: I hear you, and I would just like to voice my opposition to this, as well, along with the interior lot issue, I think the entire country is going the way of more, I know it sounds crazy, more concentrated dwellings, with limitations, and I know, in the newspaper, in publications recently, that accessory apartments have been a huge plus for a lot of people.

Chairman Camilli: I know, I've read them.

Commissioner Ancona: It's a tough call, it really is.

Chairman Camilli: Oh, I'm not saying it isn't, but I, as I said, it's an opinion, and you are certainly free to express it....

Commissioner Ancona: One last thing, Mr. Chairman, I would also like to say that is, it's our duty to look at these things and sometime we have to look a neighbor in the eye and say, you're wrong, and we're going with the applicant, or we are going against the applicant, and I think we are.....

Chairman Camilli: You haven't had the experience I think that we have,

Commissioner Ancona: Absolutely.

Chairman Camilli: When I say we, most of the Commissioners, what happens is, they meet the regulations, so what happens is that you get the opposition, but they meet the regulations so what happens, as you can see tonight on this application that we just heard. If they don't meet the green space, there is a problem, but what happens, if the yard is big enough, and they have the space for it, and they meet, and if it is in the regulations, and you get a ton of opposition for it, you can't do anything about it. I mean, we are ruled by our regulations and one way to take care of it is to delete it. You don't have to deal with it. Like the auto related uses and that is for the same reason, I mean, if we don't want something and I'm only one person, I guess I'm doing all the talking, but Commissioner's feel strongly about saying, not another auto related use, the best thing to do is take it out of the regulations, and I think that is the point that we got to, most of us, are experienced and that is my rational.

Commissioner Ganley: The issue of the more concentration of people, in more concentrated neighborhood, transportation centers, and so on, everybody seems to toss out this smart growth thing, to their own advantage. That is done on a planned basis. When you have a tract of land

where you can plan how those units are going to comport with one another. What we have before us with the interior lots, with the accessory apartments is an ad hoc approach, sort of piecemeal around the town, there is no plan to it, it's just on an application basis, we have to look at like fifty-five different things, to see if it fits, especially the issue with a neighborhood that is in fact zoned for single homes should it then therefore be zoned for two family homes all of a sudden because we keep chipping away at this. The interior lot, the lots were laid out, not as interior lots, they were laid out as single family lots, that's what they were laid out as. Now they want to put a little more density, a few more houses, and we are fighting the same kinds of battles. I have nothing against planned development, but I really object to what I call, almost but not quite the same, as sort of a spot zoning. I don't particularly care for that. Just get rid of the whole back lot issue, and get rid of that accessory apartment issue. If somebody wants to put a big dormer off the back, and put grandma up in there, a second bedroom or third bedroom, fine. Convert their garage into a living room and TV and everything, that's fine.

Chairman Camilli: Okay, that's another opinion.

Commissioner Kornichuk: Now I think if you get rid of the accessory apartments you are going to force people into doing it illegally.

Chairman Camilli: You know, that's like the whole immigration issue....

Commissioner Kornichuk: It's going to happen.

Chairman Camilli: Well, it's up to the town to enforce it, and we have regulations to enforce it, is all I've got to say, and we are a nation of laws, and if they do it illegally and they get caught, then they have to face the ramifications of it. I don't know what else to say about that, perhaps Mr. Meehan.....

Ed Meehan: We do catch up with them. More often during the re-evaluation process, when we actually know what is in there as far as kitchens and bedrooms.

Chairman Camilli: And that is every four years now, it used to be ten.

Ed Meehan: That's a statistical reval; full is still ten. There is a lot of work going on that we don't catch up with. A lot of do it yourselves in a town like Newington and they get the rough plumbing in and electrical when the house is built, and they throw these things in.

Commissioner Ganley: And they may not be safe, by the way. You know due to the place where the sink and the electrical outlets and wiring, so it isn't regulated by us, which poses another problem for a person putting in an illegal apartment. Just because they swim the Rio Grande doesn't mean it's a good idea.

Ed Meehan: I think the bigger issue is, the affordability issue is always a strong issue that the commission sort of has to come to grips with, and you heard from two regional planning agencies on that issue; but it's also the issue of, as you say, if you get enough of these, in one area, are you converting a single family area into a two family area, a duplex area. You know, we don't get a lot of these, if you get two every year, that's a lot in Newington for accessory apartments, which tells me that more people are doing this without coming to us. We know they are out there.

Chairman Camilli: Usually what happens, one that we just had, the experience has been when they go to sell them, they advertise them as two family, and all of a sudden it's not on the deed as such, and then they had to, and then one person said, well, just have the zoning commission change it, and we denied it. So, at some point the illegality comes to the fore, and then they have

to, and to me, there is a tax issue involved with this, that person, whether it should be something addressed to the town attorney that when you do get caught, there should be back taxes if they get caught. I don't think it should be something that just should be overlooked, if in fact if there is a lot of it. Maybe we should have a task force or something.

Commissioner Schatz: You know, the climate, I understand what Commissioner Ancona is saying, I understand what you are saying, but the climate has changed, in Newington to a point, and you have to recognize it, that we have a neighbor over to the west of us here that has houses behind houses and if you go down those streets and take a look at them, I mean, you talk about blight, it's there. The climate is changing in Newington, even when somebody buys a regular residential house, I mean, look at the rubbish going out, boxes, on collection day.

Chairman Camilli: Certainly we have opinions, and at the time of the vote we will vote and whatever, if anyone else has anything to say, Mr. Cariseo?

Commissioner Cariseo: I totally agree with what you say on accessory apartments. I think if you want to build a room for Grandma, just doesn't need a kitchen with it. If somebody breaks the law, and you catch them at it, you make them pay.

Commissioner Ganley: The issue of affordable housing raised by CCROG is a phony issue. I'll tell you quite frankly, it's a phony issue. It boils down to putting in a kitchen and maybe an additional bathroom in a single family home, it has nothing to do with providing affordable housing. Affordable housing for someone who is renting or wants to buy the other half of a house, you know, nobody buys the accessory apartment, and the only ones that, and no one is supposed to be renting the accessory apartment either, by the way, it's supposed to be for Grandma, so it's not, I don't know where they come up with that affordable housing thing, with accessory apartments we are defeating the purpose of affordable housing. Affordable housing is planned, you get a parcel of land, and you plan affordable housing units on it, and that is how you parcel out green space and a playscape and so forth, so I don't know where they come up with that. I read that thing, and I said, what are they talking about.

Commissioner Fox: Commissioner Ganley had some excellent points as far as accessory apartments versus affordable housing, but I agree that accessory apartments should be deleted and the arguments that, well people are going to build them illegally, people are always going to do illegal stuff. They are going to prove something, on their own. These regulations just like the lock on your front door, they are there to keep honest people honest. You are going to have some people trying to do that, and.....

Chairman Camilli: And I don't think you can really stop it. When it happens, we may look into a process. Check with the Town Attorney, maybe you will get it back in a few months, something, is there a tax, I'd like to know if there is a tax liability, and can the town pursue that? That they do in effect have a two family house and for the number of years that they had it, it's really not fair.

Ed Meehan: I don't think there is anything retroactive.

Chairman Camilli: Not retroactive, but you can get them for that year. Well, anyhow, I didn't give it any thought, but if it's a problem, I think we should perhaps have some process for it. Any other discussion. I think we had a fairly decent discussion on this. As I say, you hear a lot of stuff, read a lot of stuff in the newspapers, now about this, we will probably hear more in the future.

Okay, we are up to Section 7.4.8, that's the one with the slope and I think we did that, right? Section 7.4.29; Section 8.1.4. That's the end.

I think that the contentious ones, we have some comments on the record. Okay, so now we have a motion to postpone.

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

8-24 Referral Report

To Town Council

**Alumni Road Subdivision Street
Willard Avenue to Memorial Road**

Commissioner Schatz moved that the Commission's 8-24 Report to the Town Council recommended the following requirements for the acceptance of Alumni Road as a public street:

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 and drainage easement if applicable
4. Retainage of the \$20,300 performance bond as surety to remove temporary cul-de-sac and reconstruction as a through road contingent upon the approval of State Traffic Commission.

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

Chairman Camilli: This will help, I think to help move the traffic along there which might help that whole area.

Ed Meehan: If the State Traffic Commission lets the road get open.

Chairman Camilli: Well, that's where we are, at least we are moving it along.

Commerce Court Subdivision Street
Bond Release

Commissioner Ancona moved that the \$30,500 performance bond held for Commerce Court be released all work having been completed and this road is now ready to be dedicated to the Town for public use.

In accordance with Section 7.7 (e) of the Subdivision Regulations and Town Council's Resolution No. 2007-14 a one (1) year maintenance bond in the amount of \$3,000 shall be posted with the Town Manager prior to the release of the performance bond.

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

Chairman Camilli: Motion passes.

**Hollow Tree Lane Subdivision Street
Bond Release**

Commissioner Cariseo moved that the \$30,100 performance bond held for Hollow Tree Lane be released all work having been completed and this road is now ready to be dedicated to the Town for public use.

In accordance with Section 7.7 (e) of the Subdivision Regulations and Town Council's Resolution No. 2007-14 a one (1) year maintenance bond in the amount of \$3,000 shall be posted with the Town Manager prior to the release of the performance bond.

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

Chairman Camilli: These may just seem like they are perfunctory little jobs, but you know about the state with 84, you know, what kind of a road do you have there.

Ed Meehan: These roads have been lingering since, a long time, 1997.

Commissioner Ancona: I don't remember a vote on Alumni Road. I could have been day-dreaming, but, I don't know if it really matters.

Chairman Camilli: We did.

VIII. PETITIONS FOR SCHEDULING (TPZ July 25, 2007 and August 8, 2007.)

- A. PETITION 32-07 – 129 Willard Avenue, Gibbs Oil Company L.P. owner and applicant, attention: Eric Knapp, Esq., 148 Eastern Blvd., Glastonbury, CT 06033, request for Special Exception Section 3.11.3 B-Business District. Schedule for Public Hearing July 25, 2007.
- B. PETITION 33-07 – 129 Willard Avenue, Gibbs Oil Company L.P. owner and applicant, attention: Eric Knapp, Esq., 148 Eastern Blvd., Glastonbury, CT 06033, request for Site Development Plan, Section 5.25 B-Business District. Schedule for Public Hearing July 25, 2007.

Ed Meehan: The attorney for Gibbs Oil, for those two petitions has requested that the Commission schedule this for August 22nd because of vacation plans by his clients. So I think that is a fair request. You have sixty-five days to schedule a hearing, so you are okay there. We have a petition for 43 Vivian Street, the residual lot. It's the court case issue that has been going on for several years. Quick background, the superior court case, the plaintiffs have withdrawn their arguments and the superior court next week will accept the memorandum to stipulate that. It still is in appellate court, and the applicant who is the owner of 43 Vivian Street has been recommended to apply and go back through the Commission and the new regulations so that they can get a Certificate of Occupancy. Then that can be withdrawn from Appellate Court, so I would recommend that you put it on for the 25th. The only item that is right now on the agenda for the 25th for New Business would be a directory sign at 37 Ann Street which wants to share a pylon with Turnpike Motors. Then you have some business from tonight which was carried over, the restaurant.

Chairman Camilli: When is our next meeting?

Ed Meehan: The 25th of July.

Chairman Camilli: This petition, if we vote on the 25th on these regulations, what is it going to do to this petition.

Ed Meehan: It doesn't affect it at all. They have filed before the effective date of any regulation changes. The statute says that if you bring in a site plan, any application before the effective date you're grandfathered.

Chairman Camilli: Okay, I just wanted to clarify that.

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

None.

X. REMARKS BY COMMISSIONERS

Chairman Camilli: I don't know if you noticed but Main Street, they are working on what we approved there.

Commissioner Ganley: The gas station.

Chairman Camilli: Then there is something going on, on Brockett right across the street, did you see that, the gas company and they had signs up there.

Commissioner Fox: The gas company or was it, was that definitely the gas company because I know that CL&P has Davey Tree Experts driving all over town.

XI. STAFF REPORT

Ed Meehan: If you guys are out, take a ride down and around Sam's. They have lowered the pond, and relocated the stream, they are fabricating the conduit for the parking lot, it's quite an undertaking going on there.

Chairman Camilli: Stew Leonard's I understand is doing well.

Ed Meehan: We received the bond, Toll Brothers posted their bond for the first phase on Friday, last week, for twenty-eight units. They are issuing at least two or three c.o.'s this week. The bond for Laz-E-Boy, again I recommend that you not release that, talked to the contractor who is doing that work. Finally got the landscaping people on the site today to pull a lot of dead vegetation off the site, cleaned up some of the islands. The lawn in front doesn't have any real good topsoil and the irrigation system is marginally working. Neulli Contractor out of Manchester, and I said my recommendation to the Commission is going to be, go ahead with your landscaping but wait till cooler weather for your (inaudible). We're just pushing back and forth on that one.

XII. ADJOURNMENT

Commissioner Fox moved to adjourn the meeting. The motion was seconded by Commissioner Kornichuk. The meeting was adjourned at 10:10 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary