

NEWINGTON TOWN PLAN AND ZONING COMMISSION

October 28, 2015

Regular Meeting and Public Hearing

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 in the Newington Town Hall, 131 Cedar Street, Newington, CT.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Brian Andrzejewski
Commissioner Carol Anest
Commissioner Michael Camillo
Chairman Cathleen Hall
Commissioner Stanley Sobieski
Commissioner Anthony Claffey-A

Commissioners Absent

Commissioner Robert Serra Sr.

Staff Present

Craig Minor, Town Planner

Commissioner Claffey was seated for Commissioner Serra

III. APPROVAL OF AGENDA

No changes

IV. PUBLIC HEARINGS

- A. Petition #31-15: Zoning Text Amendment (Section 3.22.1.C Commercial Vehicle in Residential Zones) to change the definition of "commercial vehicle" Newington TPZ applicant/contact. Continued from October 15, 2015.**

Craig Minor: This was kept open to provide for some additional public comments if interested. I sent a copy of the draft to the Chamber of Commerce last week, and it was distributed among their members. I have not gotten any calls or contacts since the previous meeting, so I have nothing new to add.

Chairman Hall: Before we go to the public, does anyone on the Commission have anything to say at this time?

This is a public hearing, so anyone wishing to speak in favor of this petition come forward, state your name and address for the record. Anyone wishing to speak in opposition? Anyone wishing just to speak?

John Bachand, 56 Maple Hill Avenue: I'm okay with it if you don't plan on changing anything after I speak. There were some discussions last week, but the way it is, I think it is fine. I'm just really disappointed or surprised that there is no one else here from the public because a lot of people are going to be affected by this, so I had suggested about increasing the signage from two square feet total, and I thought it might be better to have two square feet per side. I wouldn't change anything else, from what I heard I'm okay with it. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak? Seeing none, back to the Commission. Comments?

Commissioner Aieta: Well we left it open to specifically allow the public the opportunity to come in and address this issue. I don't know how much publicity we gave it, but these are televised meetings, and we have to take credence on what the people who come here speak about. We like to hear what the public has to say, and not seeing anybody specifically for or against this amendment to the regulations, I think we should close the public hearing.

Chairman Hall: Anyone else on the Commission wish to add anything?

Commissioner Anest: I just want to agree with Frank. We did, we kept it open and I am disappointed as well that the public did not come out and speak, but they had ample time, so I agree with Frank.

Craig Minor: The legal notice, when I publish the legal notice with new things, I just keep the old ones repeated, so in the past two months I guess, there has been a legal notice in the paper every other week telling people about this proposed amendment.

Chairman Hall: So there it is, and the consensus of the Commission is to close this and move forward, which will be November 12th.

Craig Minor: The Thursday after....

Chairman Hall: Because Wednesday is the holiday, so we will be back to a Thursday evening meeting, same time but on Thursday instead of Wednesday.

B. Show Cause Hearing to Revoke Special Permit #16-14: Special Exception (Section 3.15.3: Outside Restaurant Seating at 3260 Berlin Turnpike (Plaza Azteca Restaurant) Hector Angel, owner, Manuel Rubio, applicant/contact. Continued from October 14, 2015.

Chairman Hall: Is the applicant present? If so, please come forward and state your name and address for the record.

Manuel Rubio, 701 (inaudible) Road, Manchester: First of all I want to apologize for missing the previous hearing. There were some holidays when the agenda was sent and the restaurant was closed so I didn't get it in time.

I request some additional time so I can get in contact with the Fire Marshal and the police officer so that I can present a proposal to you, as far as the size of the seating and then an approved plan of this one-time event every year. I'm here to see if I can get that extension so I can get all of the information together.

Commissioner Anest: If you are going to come back to us with a new plan, wouldn't it make sense for us to terminate your special permit now, and then you come back for to us to grant you a new special permit for Cinco de Mayo of 2016 instead of trying to revise the special permit that we have for you? Do you follow what I'm saying?

Manual Rubio: Yes, absolutely.

Commissioner Anest: Because you have a special permit now with certain restrictions and if the Fire Marshal or the police are saying no, we can't do it that way, then it would be kind of like a moot point with the existing special permit.

Manual Rubio: Correct.

Chairman Hall: Also, part of our request last time was to have you compare this to Cinco de Mayo at your other locations. We thought you would at least have that for us, but if you are going to come back again, if we agree that is going to happen, just make sure you have that included as well, as to how this stacks up to the other towns, the other venues that you have, and how you handle something like this, because you said you have no problems in the other places.

Manual Rubio: Absolutely and that was one of the things that I also need more time for because it is hard to get everyone, they are always outside, running specials and everything. I tried to contact everyone, but it is difficult to get all of the information together from four towns and like the Fire Marshal said from here, they would have to go and measure everything so I can tell you exactly about the marketing, those things take a little more time. So as Commissioner Carol said, if you want me to reapply, or just go forward to clear this up and get these people together, and get the information from each town, the Fire Marshal and the police.

Chairman Hall: This is a public hearing, so we'll have our conversation, and we will hear from the public as well. Thank you. Now, this is a little different from what we normally have. This is a show cause hearing to revoke the special permit, so anyone wishing to speak to that petition, to revoke the special permit for Plaza Azteca? Anyone wishing to speak in favor of the revocation? Anyone wishing to speak in opposition? Anyone wishing to speak?

Commissioner Aieta: I think we should proceed with revoking the special permit. He always has the opportunity to re-apply, because the restrictions that are on this special permit have changed, so the permit that he has now is not going to be the one he has for the future.

Chairman Hall: I think that would be the cleanest thing, to revoke this and then hopefully he starts early enough, collects all of his data early enough, so if the petition comes back and we have to tweak it, we will have time.

Commissioner Aieta: Just another thought here. Other Mexican restaurants that have, on that particular holiday, they open up for a regular day of business. They don't have an outside

venue, to the extent that this particular restaurant has. We're not telling him that he can't open his restaurant, we're just saying that that this had gotten to the point where it was so unwieldy. There were thousands of people trying to get entrance to the building, it became actually a safety problem for the police and the fire. I've seen other restaurants stay open and do business without the special permit.

Commissioner Sobieski: I totally agree with Commissioner Anest and Commissioner Aieta. I also would like to see, when this applicant reapplies, exact plans for the other restaurants and I would like a letter from those towns saying that they haven't had problems. The reason I'm saying that is when he does apply, there are going to be some changes, obviously. I want to make sure that we are going to be using the same standards as the other cities and towns where these are. Obviously like any situation near the Berlin Turnpike we don't want them on state property like they were before. The fence, that has to be enforced. I think that has to be looked at as well as the amount of participants that will be allowed in at one time. So, just to throw a number out, if you have 500 for seating at 7:00, you have 500 at 10:00, or however it works, you can't exceed that amount. I'm just using that as an example, I'm not sure how it works.

Chairman Hall: Anyone else wishing to speak on this?

Commissioner Camillo: Make a motion to close the public hearing.

The motion was seconded by Commissioner Anest: The vote was unanimously in favor of that motion of closing the hearing, with six voting YEA.

Craig Minor: Do you want to put it on the agenda for action tonight?

Chairman Hall: Are you prepared for that?

Craig Minor: No. This is something that is very unusual, and I don't think there is going to be litigation, but I want to do it correctly. Or just give me a few minutes at some point tonight to go back to my office and draft something. I don't think it will take too long, but I would like to have something in writing in front of you.

Commissioner Aieta: This is not that pressing that we have to act on it tonight.

Chairman Hall: I'd rather do it in November.

Craig Minor: Okay, I'll put it on the agenda under Old Business for next meeting.

Chairman Hall: Okay, so to clarify, for Petition #16-14 we're closing and we are going to move it to November 12th for action.

Chairman Hall: For Petition 37-15, I am going to recuse myself from this. The Vice-Chair will take over.

C. Petition #37-15: Special Permit (Section 3.2.1: Church at 800 South Mountain Road. Hartford Liederkrantz Inc., owner, St. Thomas Indian Orthodox Church, applicant. Rev Fr. Abraham Philip 10 Lantern Hill, Newington CT, contact. Continued from October 14, 2015

Commissioner Sobieski: I'd like to state for the record that I am a member of this Hartford Liederkrantz and I will be voting on this, and I do not hold a position that would be affected by the outcome of any vote.

Binu Chandy, 21 (inaudible) Drive, Mansfield: I would like to disclose that I am a member of the Mansfield Planning and Zoning Commission and I am representing the Indian Orthodox Church, the applicant. I am a church member, so I would like to take the opportunity to clarify some issues and concerns raised at the October 14th hearing.

First, the discussion on whether the property will potentially have an adult day care or a school. We will not be using the property for a day care or a school at any time. We will be using this only for worship and for ancillary activities such as Sunday school, Bible study class, etc. One reason why we cannot use this for a day care center or school is that in the Orthodox faith, the sanctity of the sanctuary or worship area is very important to us. As I presented last time, we have been worshipping in the Grace Episcopal Church basement and that space is used for numerous activities during the weekdays, so the Priest, who actually right now is commuting from New York on Saturday evenings, or Sunday mornings, in the first part of our worship and prayers is to ward off the evil spirits and stuff like that, so that is another reason we want our own home, to make it more convenient for us. There is no chance whatsoever that we would use this for anything other than worship and worship related uses.

There was a discussion about outdoor recreation for the children. We have nothing elaborate planned. This is just, you know, when the adults gather together in a meeting during, or after church, and children are children, they see space outside and they may want to go outside and play. So there is nothing elaborate planned, just to provide that space. In the drawings [displayed on the wall monitor], 800 is the property that we are looking at, you see the rectangular south of that, the southwest corner of that parcel, that's where we are thinking that the children could have a safe space to play. Nothing elaborate planned. We may have a hoop, I misspoke at the hearing last time when I said basketball court, that's wrong. We may have a hoop, and one of the Commissioners was very kind to suggest that we use traffic cones to mark the area so that that area can also be used for snow storage. So, that's all that we are going to be using that for.

Then there was a comment from the owner of 416 Hartford Avenue, south of 800. This is C&C Automobile. The person had a concern about resale value of his property, especially about his ability to convert to an alcohol-selling establishment if our church gets approved. There are, according to your regs, four classes of alcohol permits: restaurants, bars, stores and clubs. This area is Industrial, the I Zone. 800 North Mountain Road as well as 416 Hartford Avenue is zoned Industrial, and in the Industrial Zone you only allow clubs. Any other alcohol establishments are not possible. The regulation also says that a club with an alcohol permit must be at least 1500' from another club. If you look at the map that I have there [displayed on the monitor], and you see the star to the right side, top right, that's C&C Auto, and I have a 1500' radius drawn out. There are three clubs involved within the 1500 radius. One if the 800 North Mountain Road club, which is the Hartford Liederkrantz, the second one is the Portuguese

Club, and the third is Hartford Saengerbund. So our special exception request to change this club use to a church use doesn't affect the owners of C&C Auto are already two clubs within the 1500' radius. There is another rule in the regulations that says that a church has to be 500 feet from an alcoholic establishment, and as you can see by the red circle, that is the 500 feet radius, that we are well out of that. The Portuguese Club is out of the 500 feet radius, so we are satisfying that regulation as well. So in terms of the concern about our request, this doesn't have value because of these regulations.

There was a request to show all the easements on the property. We did some research on that, and there is a (inaudible). 416 Hartford Avenue actually has a fifteen foot right of way and you see in the picture there, it's along the westerly boundary of the property, the fifteen foot easement is a sewer easement and it's for constructing and maintaining a sewer line for 416 Hartford Avenue. A long, long time ago, prior to 1970, prior to the club being established, both of these properties belonged to one person. Even though the easement is there, it doesn't restrict the owner of 800 North Mountain Road from doing anything on that fifteen foot sewer easement. There is another easement, a ten foot gas easement inside the fifteen foot sewer easement, it's within that and it's to Connecticut Natural Gas Company Corporation and that easement actually has a restriction that we are not allowed to do anything on that.

There is another easement that goes across the property, see that yellow line [pointing to image on the monitor] that has a very strange shape, a L shape, so we have that easement, it's about 5500 square feet and it is a right of way to the State of Connecticut, Department of Transportation. I did check with the Building Department's staff, and he mentioned that it has something to do with a group maintenance project that was completed about eight years ago. It started from West Hartford, and that was part of that project. Then there is another easement north of the property, along North Mountain Road and that is to the telephone company, so Southern New England Telephone Company.

The neighbor from C&C automotive services had some concerns about the trees on the 800 North Mountain Road property, close to the sewer line, that would affect access to his property in case of sewer issues. The trees have no connection to the special exception request for a change of use, and as stated, the fifteen foot right of way does not restrict the owners of 800 North Mountain Road from using the right of way.

As promised at the October 14th hearing by the seller of this property, the trees have been cut down. We mentioned at the public hearing that we did check Wetlands and Watercourses map, and the trees were actually out of that, out of the wetland area. Therefore this concern from the petitioner is no longer a valid issue.

I believe we have addressed all of the significant and relevant issues that were brought up and therefore I respectfully request the Commission consider closing the hearing today and take action today, because we had, we were looking to close in November. We were asked to close in October so if there is any way you could do this, we would appreciate it. I'm open for questions.

Vice-Chairman Anest: Craig, do you have any?

Craig Minor: No, she covered all of the issues that I thought were outstanding.

Vice-Chairman Anest: Do the Commissioners have any questions before we go to the public?

Commissioner Claffey: The information that was presented to us tonight and left on our desk, is that put in to be part of the record?

Craig Minor: Yes, that's part of the application.

Commissioner Claffey: Thank you.

Vice-Chairman Anest: Is there anyone from the public who would like to speak in favor of this petition? Is there anyone from the public who would like to speak against this petition? Please come forward and state your name and address for the record.

Frank Capaldo, 183 Nott Street, Wethersfield, Connecticut: My brother and I own 416 Hartford Avenue known as C & C Automotive. As a joint property owner I oppose the application for 800 North Mountain Road to be used as a church. First they said school, now they are saying church which will prohibit the sale of alcohol, a restaurant, or a package store within a certain distance. She said 500 feet. This option is currently available to me. Also, on page 2 of the application, it is stated there is a (inaudible) parking on the property of this proposed use. This may not be taken into account that some of the parking is over the right of way in my favor in the parking lot area. I have requested that the current property owners remove this paved area as it interferes with my right of way. She said, and I can be corrected if I am wrong, that you had to be 500 feet away from a church to serve alcohol, so if this is approved, I'm not 500 feet away, I'm not even 50, 70 feet. So therefore, in the future, if I wanted to not repair cars any more, I can come over to the TPZ and ask permission to run a restaurant, there are a lot of things that serve alcohol, therefore, I'm not able to do that because of the church being there, because I am too close to the church. Therefore I think this should be denied. I don't see why I have to be penalized that, because they want to put a church and by changing the zone, denying all the rights in the future have been taken away from me. I don't think it's fair. Ultimately you have the right to do whatever, but I don't think it's right to do, favor one person and not the other. I read my deed and I read their deed, it says, the fifteen feet needs to be free from anything. No parking lots, no air conditioning compressors, no nothing.

Vice-Chairman Anest: The fifteen foot?

Frank Capaldo: The fifteen foot.

Vice-Chairman Anest: The sewer?

Frank Capaldo: The sewer, the gas line. I paid with all my own money, my brother's money to put a sewer line, a private sewer line there and gas line. The MDC is not putting in the sewer line, we had to pay ourselves. So therefore, I want no interference.

Vice-Chairman Anest: Is there anyone else that would like to speak against this petition?

Jack Capaldo: About the gas line, the gas company doesn't own the gas line, we do, we had to pay for the gas line from North Mountain Road to our garage, so we paid for it, so that is why (inaudible) And you have a gentleman who is sitting here and he said he is a member and he is going to vote on this. That is not right.

Vice-Chairman Anest: Thank you very much. Is there anyone who would just like to speak?

Commissioner Sobieski: I will recuse myself, it doesn't matter to me.

Vice-Chairman Anest: I think that would be a good idea, thank you.

Craig Minor: I'd like to ask Mr. Capaldo a question? Sir, did you bring a copy of the easement that you said specifies what can be done in the easement area? I'm sorry, the deed. Did you bring a copy of it?

Vice-Chairman Anest: There should be a separate easement in the land records as well.

Craig Minor: There should be, but he says it is in the deed.

Vice-Chairman Anest: Any other Commissioner comments while he is looking for that? Does the applicant have a copy of the deed?

Binu Chandy: I have 800 North Mountain Road.

Vice-Chairman Anest: I want to see the actual easement.

Craig Minor: [looking at document] There is nothing in here that prohibits the property owners from using that land.

Frank Capaldo: No, no, no, I didn't say that.

Craig Minor: Yes you did, that's why I asked you for a copy of it.

Frank Capaldo: No, I said that the deed, that this deed, Frank Capaldo who owns the property that...

Craig Minor: That's 416 Hartford Road. This is 800 North Mountain Road.

Frank Capaldo: I showed you where...

Craig Minor: It's 416 Hartford Road that I wanted to see. Okay, we need the 416 Hartford Road deed because that is what you said... [looking at document] No, all it says is "heirs and assigns forever as a covenant on the land for the purpose of laying, constructing and (inaudible) and maintaining their (inaudible) said right of way is for the purpose of servicing Hartford Road". It doesn't say anything about not being able to do anything on top of the land.

Frank Capaldo: Are you a lawyer, sir?

Craig Minor: No, but I can read English.

Frank Capaldo: That's okay, but the law says nothing should be on top, I'm not going to be responsible for removing the asphalt pavement. That is what the law says.

Craig Minor: I will need a copy of this. This is your only copy? Okay, I will make a copy of this tonight and give this back to you. So you have not given us the deed for 416 Hartford Road.

Frank Capaldo: That's it.

Craig Minor: No, that's Liederkrantz. Do you have the deed for 416 Hartford Road?

Frank Capaldo: If you want that, you should ask for us to submit it. Not tonight.

Craig Minor: I don't want it; you brought it up.

Frank Capaldo: I am telling you, it's the law, nothing should be on top of that right of way, and if you allow it, you are going to be responsible, it's going to be on your head, and you people are going to be responsible.

Vice-Chairman Anest: Can the petitioner have a chance to rebut your comments?

Frank Capaldo: Yes.

Vice-Chairman Anest: Thank you. I notice that the CNG easement is to you, not to 416.

Binu Chandy: Yes, it is to us. And the fifteen foot right of way easement and the difference between having a resolution you can have another page with the right of way easement to the Connecticut Natural Gas...

Vice-Chairman Anest: From the Liederkrantz to CNG.

Binu Chandy: Yes, but that one has a restriction. To know the difference between an easement with a restriction and an easement without a restriction I would point out.

Vice-Chairman Anest: The easement that is on the land records for CNG, the ten foot, is between the Liederkrantz and CNG. It has nothing to do with 416. 416 does have a right of way, but there are no restrictions.

Binu Chandy: And since you are talking about 800 North Mountain Road, we have to look at the easement for 800 North Mountain Road and that is what these are, and the two other points that the neighbor brought up about the 500 foot radius. The 500 foot and the 1500 foot rule, they do not satisfy that, the distance between clubs and also out of the four possible alcohol establishments, that is restaurants, bar, store and club, you are not allowed to have a restaurant serving alcohol, you are not allowed to have a bar, and you are not allowed to have a package store selling alcohol in the Industrial Zone. So, C&C, 416, the only alcohol establishment that can be there is a club, but then the 1500 feet, which they do not satisfy, so they do not qualify for any alcohol establishment.

Commissioner Aieta: Just a clarification - the right of way that 416 has for the Natural Gas easement, the fifteen foot easement...

Binu Chandy: Let me clarify. That is to the Natural Gas Corporation, not 416 Hartford Avenue. There is no proof that it is for 416 Hartford Avenue.

Commissioner Aieta: Okay, let me rephrase that. On the map that is up there where it says "easement for 416 Hartford Avenue, from Connecticut Natural Gas", in that yellow oblong easement area, is there anything on that easement now? Is there any construction, is there a compressor, is there, what is on there? Is there anything on that easement?

Binu Chandy: Right now there is nothing. On the north corner there is a little A/C unit which is away from the easement, away from the gas easement for sure.

Commissioner Aieta: If there is a need to get in there to...

Binu Chandy: It doesn't obstruct. I have some pictures also.

Commissioner Aieta: I'd like to see them.

Binu Chandy: These three are good. In fact there is a large tree in the neighboring property that would obstruct access to 416. These five trees, five or six, six trees, you know are so easy to cut them or do anything to allow for access. The bigger problem is the big tree on neighboring property which is 790.

Vice-Chairman Anest: We don't have a copy though of the easement that is (inaudible). That is a warranty deed.

Craig Minor: Right.

Vice-Chairman Anest: That is not going to give you exactly what the easement is, so I think that might be something that we should have.

Craig Minor: All of this is really a civil matter.

Vice-Chairman Anest: We will give Mr. Capaldo one more chance to rebut.

Frank Capaldo: I just want to bring to you that all the bills that I paid to the gas company, all of the bills that I paid, the gas company does not own. You vote on it, and I'll bring all of the bills that I paid, all the things that the gas company told me, that it has to be clear of everything, nothing on the easement. There is no way I can provide you this, I do have it, and I can provide it next time if you table this and you vote next time.

Vice-Chairman Anest: Okay, it's going to be up to the Commissioners.

Frank Capaldo: I understand that, I'm just saying, I know I have the bills that I paid for it. Thank you.

Binu Chandy: If he has an easement on this property, we have to respect that. That is something that needs to be checked out legally, not in this forum.

Vice-Chairman Anest: Correct. Thank you. Any other comments from the Commissioners? What is the pleasure of the Commission? What would you like to do?

Commissioner Aieta: Some times in zoning when we get into these issues, the issue becomes more cloudy the more we talk. I would like to make a motion to close the public hearing and move it to Old Business for the next meeting.

Craig Minor: Can we separate that; close the public hearing, and then talk about when we will act on it.

Commissioner Aieta moved to close the public hearing. The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with four voting YEA.

Craig Minor: The applicant asked if you would consider acting on it tonight since this has gone through an extra meeting because of the issues raised by the neighbor.

Commissioner Andrzejewski: Considering the circumstances the Commission could vote on it tonight if everyone else agrees. (inaudible)

Craig Minor: That's exactly what it is, a civil conflict that has nothing to do with the application. Nothing to do with your jurisdiction. As the applicant said, they will have to comply with whatever they have to comply with. It doesn't affect the use of the building as a church.

Commissioner Camillo: I say vote on it at the next meeting.

Vice-Chairman Anest: Is that the consensus of the Commission? We have decided that we will vote on this at our November 12th meeting. It will be under Old Business on November 12th.

Commissioner Anest: I am recusing myself from this next Petition. My son is a student at this studio.

- D. Petition #39-15: Special Permit (Section 3.11.1 Health Club) at 135 Lowry Place, Lowry Place Realty LLC, owner, Connecticut Kenpo Karate, applicant; Wayne Tanguay, 48 Buckingham Street, Newington CT, contact. Continued from October 14, 2015.**

Chairman Hall: If the petitioner is here, come forward, and state your name and address for the record.

Wayne Tanguay, 48 Buckingham Street, Newington: Good evening. I am the owner of Connecticut Kenpo Karate. As I stated the last time, Connecticut Kenpo Karate has been in Newington for the past twenty-four years. Two years on Willard Avenue behind 7-11, twenty-two years on Market Square. We need to move because the building on Market Square has been sold, and we need a new location. 135 Lowry Place, they are doing a lot in that area right now, hoping that continues, it's a good location. Being a health club we need a special permit. That's about all I have to say.

Chairman Hall: Thank you. Commissioners, before we go to the public.

Commissioner Aieta: Just a note for the record: we left this open specifically because of the timing; that is the reason it was left open for an extra meeting.

Chairman Hall: This is a public hearing, so we will go through the usual routine. Anyone wishing to speak in favor of this petition, come forward, state your name and address for the record. Anyone wishing to speak in opposition? Anyone wishing just to speak? Seeing none, back to the Commissioners.

Commissioner Aieta moved that the public hearing be closed. The motion was seconded by Commissioner Andrzejewski. The vote was unanimously in favor of the motion, with six voting YEA

Commissioner Aieta moved that Petition 39-15 be placed on the agenda for action this evening under Old Business. The motion was seconded by Commissioner Andrzejewski. The vote was unanimously in favor of the motion with five voting YEA.

V. PUBLIC PARTICIPATION (for items not listed on the Agenda, speakers limited to two minutes.)

None

VI. REMARKS BY COMMISSIONERS

None

VII. MINUTES

A. Regular Meeting September 24, 2015

B. Special Meeting September 24, 2015

Craig Minor: I did finish the first one today, but I recommend that these be tabled for tonight.

VIII. NEW BUSINESS

A. Petition 30-15: Site Plan Modification at 80 Fenn Road. Fenn Road 80 LLC owner/applicant Joseph Sullo, 312 Murphy Road, Hartford, CT, contact.

Russell Heintz: Good evening, Russell Heintz a principle in the surveying/engineering firm of Tarbell, Heintz and Associates that prepared the plans for Joseph Sullo, the applicant.

Craig Minor: I had a memo this afternoon from the Engineering Department, not from the Town Engineer himself, who is out on medical leave. I got an e-mail from his staff stating that although not all the information that was requested has been submitted, the engineering department does feel that there is enough information such that this application could be approved with condition that the additional data be submitted. I wasn't in a position to say that at the last meeting.

Commissioner Aieta: Do you know what those items are?

Craig Minor: Yes.

Chairman Hall: While you are looking for that, does anyone have any questions?

Commissioner Camillo: Are you up and running now?

Russell Heintz: No. We're still renovating inside the building.

Commissioner Camillo: I've seen the trailer in back; they were taking the cardboard out.

Russell Heintz: In the back of our building?

Commissioner Camillo: The building next door. You said the trailers would be there for 72 hours at the most, and none of those trailers have been moved....

Russell Heintz: That has nothing to do with the environmental disposal material. That's the packaging of the foam. The only thing that has to be moved within 72 hours is the hazardous waste material that was being transported from a site and has to leave the State of Connecticut. Once 80 Fenn is up and running those tractor trailer trucks will be able to speed their operation up and will be leaving.

Commissioner Camillo: There are quite a few of them.

Russell Heintz: Yes. I don't know what is in them.

Commissioner Aieta: We hope that that is not going to be the standard operating procedure, having fifteen or twenty trailers parked on Holly Drive.

Russell Heintz: That is the reason we are trying to get 80 Fenn Road up and running.

Commissioner Camillo: Are they going to be able to bring trailers into that building?

Russell Heintz: That was the reason for it, to pull through and then back up to the loading dock.

Craig Minor: There is a two-page letter from the engineering department to the applicant indicating the information that is still needed.

Russell Heintz: Which I haven't seen yet.

Craig Minor: Right, it was mailed today.

Commissioner Aieta: Have you read that?

Craig Minor: No.

Commissioner Aieta: I'm just curious if there is anything in there that sticks out that you would consider or we would consider being something that would hold this up.

Craig Minor: Good question, and that is why I asked the Engineering Technician if there was anything in here that, as you said, something that would stick out as a problem and he said no. This is about the storm water management plan. It's all very detailed, pre- and post-runoff

calculation, where the runoff is going, are the pipes big enough to handle the additional runoff, is enough of it being infiltrated for our new LID regulations, all of that sort of stuff.

Commissioner Aieta: Did this go through Wetlands already?

Russell Heintz: IT doesn't need to.

Craig Minor: I think that if it did need to, the Town Engineer would certainly tell us. He is the staff of the Wetlands Agency, and Chris has never said anything about them needing a wetlands permit.

Commissioner Aieta: Just checking.

Commissioner Camillo: With the amount of trucks and trailers parked there, are there oil and water separators?

Russell Heintz: Yes. We have oil separators.

Chairman Hall: Anybody have anything else?

Commissioner Aieta: This is not a question, but this would facilitate them using the facility, and without this here it's going to make it difficult for them to get tractor trailers in and out of the building that they are renovating. If we don't allow this, it's going to make their operation almost impossible to operate. They need this because of the size of the vehicles that are coming in and out.

Craig Minor: I have a draft motion to approve if you want to move it to Old Business.

Chairman Hall: You think it's ready? No outstanding issues?

Craig Minor: There are a few outstanding issues from planning. I had ZEO/Assistant Town Planner Mike D'Amato do the review of this, and there are still a couple of issues, but I have addressed them in the draft motion that I have here. Just some minor things.

Chairman Hall: And it would say, contingent upon the Engineering items as itemized in the letter?

Commissioner Aieta: Is this part of our package?

Craig Minor: No, this was prepared this afternoon when I realized that I have a green light from the Engineering Department. I'm in a position to recommend to the Commission to approve it, and so I prepared that motion if the Commission wants it.

Commissioner Aieta: My recommendation is to move this to Old Business for next time. We have a couple of weeks, so maybe some of the engineering things can be done, and you can be more satisfied that this is right, and it addresses the landscaping issues.

Russell Heintz: When I read the letter I'll let you know if I can do it.

Chairman Hall: Exactly. We don't want to make promises tonight that can't be kept.

Chairman Hall: It seems to be the consensus to move this to Old Business. I don't know if you were here earlier when we made the announcement that the meeting is on the 12th.

Russell Heintz: I heard that.

Chairman Hall: A Thursday versus a Wednesday.

B. Petition #29-15: Special Permit (Section 3.2.5 Convalescent Home) at 238, 256, and 268 New Britain Avenue (Bel-Air Manor). Bel-Air Manor Associates; applicant Bel-Air Manor Associates LLC and Salvatore Sbriglio et al, owners, Matthew Boggio, 88 Ryders Landing Suite 208 Stratford CT, contact.

Alan Bongiovanni: Good evening. These are the landscaping plans that detail the work that we have done since the last meeting based on the impression that we got from the Commission. For the record, my name is Alan Bongiovanni representing Bel-Air Manor in this on-going application before you this evening. At our last meeting the outstanding issue was the landscaping on the front of the building, and the buffering between the facility that exists and the proposal and the neighboring properties to the south, on the other side of the street. We received some direction to relocate our berm and landscaping buffer northerly outside of the state right of way, towards the building and we have done that. If you look at the driveway just in front of the proposed building, and then, to the left of that, or to the west where there is a stand of mature pine trees, but have been "limbed up", we're now proposing to remove those trees completely and replace them with eight foot emerald green arborvitae, so the moment they are planted a very substantial buffer will just flourish from there.

The other part of the conversation was about the east side of the driveway and if we could provide some buffering there. We have done so; we've created a two foot high berm. This is an area that is relatively limited as to where we can work. Everything north of that buffer, it doesn't show on this plan, is our LID techniques: a basin that we have created to handle storm water from the site, so I couldn't put any more plantings in the north. To the south is the state highway right of way, and then we have a storm drain line, an easement in that area, so our landscape architect has taken the time to detail a very significant buffer planting and landscaped island that has different characteristics than a lot of buffers that you see. Some of the plants that we have in that location are river birch, which are planted about twelve to fourteen feet high, but they are a smaller stemmed tree so that if they had to be taken out for repair on that line, it's not a twelve or twenty-four foot, forty foot tree. They stay a smaller caliber for their life span, and they are easier to work with if something has to be done. There is a storm drain line there, we don't have any choice in that matter, it's in favor of the neighbor to the west and it exists today. This is a way to plant buffering with shad blow and other plantings in there that will create a nice buffer, a very mature looking buffer, when it is planted, but in the situation where if the occasion were to arise where work had to be done along that pipe, it could be done relatively easily.

Commissioner Claffey: Is that the planted size at the onset, or are they going to grow to that height?

Alan Bongiovanni: No, that's at planting. Whenever you see a planting list, the sizes that are specified are the sizes that they are at the time that they are planted.

Commissioner Claffey: So on your drawing, on the left side where you have the two foot berm, they would be eight to ten feet above the two foot, so you are talking ten to twelve feet, at installation.

Alan Bongiovanni: Correct.

Commissioner Claffey: Thank you.

Commissioner Sobieski: Mr. Planner, at the last meeting, I mentioned that one of the drawings had this storm drainage (inaudible) on here. Did you bring that to Mr. Bongiovanni's attention?

Craig Minor: No, I didn't get a chance to.

Commissioner Sobieski: On one of the plans that I looked at last month, with the flared end of the existing storm drain, comes out into this (inaudible). Is that your maintenance responsibility or somebody else's, do you know?

Alan Bongiovanni: That's actually the neighbor's. I think that is not so much plugged, it's just debris...

Commissioner Sobieski: I was just referring to what the plans said, I was just wondering.

Alan Bongiovanni: I did look at it, and it is the neighbor's responsibility. The water does still flow there, but there is debris on top of that pipe.

Commissioner Sobieski: Is that something you can rectify when you get in there?

Alan Bongiovanni: It's something that we can call the neighbor and ask him take care of it.

Commissioner Sobieski: I'm just concerned, I don't want to see water backing up and doing some damage.

Commissioner Claffey: I have a question on the sight line. There was a question brought up at one of the past meetings, and you said there were clear sight lines to the intersection of New Britain Avenue. There may be the need to pull back some of that brush. Is that what you are replanting here, as I look at the plan to the right, or is that area you discussed, that you would get a clear sight if you can pull back some of the...

Alan Bongiovanni: The area where I'm showing our new landscaped island is basically lawn at this time. The solid darker green on the right side, that is the vegetation around the wetlands, between the curb line and the wetland, five or ten feet that needs to be cleared.

Commissioner Claffey: Thank you.

Commissioner Aieta: Alan, there seems to be, the six parking spaces and the catch basin, on the other side, right there, is that a swale, or is that flat there?

Alan Bongiovanni: The church property is a much higher elevation, it slopes this way. There is swale that brings water into this catch basin, that catch basin and is brought over to the wetland area there.

Commissioner Claffey: I guess my question is, what's the question?

Commissioner Aieta: The question was I was trying to move some parking into that area and eliminate the six spaces in the front and move the whole island.

Alan Bongiovanni: One of the issues, again, we have to maintain this driveway. We looked at a lot of different ways to reconfigure this. On paper it's not a big deal to try different things, and this is about the best we've come up with while maintaining access. We still need to have the geometry as such so when the cars come into the porte cochere, whether it's a car or an ambulance, they can still navigate around and get back out. With the requirements that we have for this area, I didn't have an area to put those spaces, and given the nature of the rehabilitation facility, we have to have parking at the front, as we do today.

Commissioner Anest: How many spots are there today?

Alan Bongiovanni: I don't know exactly, they aren't really stripped... twelve or fifteen. There are a number of spaces just north of the house...

Commissioner Anest: Are they marked for rehab, or can anybody park there?

Alan Bongiovanni: Anyone can park there, but they leave them open for the day patients.

Commissioner Anest: But if they were eliminated, and everything was moved back, could you designate signage in other spots for rehab patients only, so nobody else would park there?

Alan Bongiovanni: Yes, that could be done, and I don't see a problem with marking any of them. I will tell you that it is a real issue for the owner and operator to not have that number of spaces in front of the building. It's a tough pill to swallow to move the ten spaces out that we did. I think we have gone to extraordinary lengths planting eight to ten foot trees, to provide buffering for a half a dozen parked cars. We're going as far as removing the stand of twelve to fifteen inch trees to provide more buffering.

Chairman Hall: So it's okay to plant on the encroaching here.

Alan Bongiovanni: The owner will plant those at his risk. It's a civil issue. There are some restrictions, if there are some issues with the drainage, he would have to remove them.

Commissioner Claffey: I have a question on the six parking spaces and the street elevation. Is there a big difference in elevation between the street and where those cars are?

Alan Bongiovanni: The cars will not be above the street, it's roughly the same elevation; maybe a foot higher because you have the difference between the top of the curb. That's why we created the berm there.

Commissioner Claffey: For an average car behind the two foot berm and the eight foot trees, if I was standing in the street, would I see the cars?

Alan Bongiovanni: No.

Commissioner Claffey: Thank you.

Commissioner Sobieski: Mr. Bongiovanni, one quick question. I don't remember seeing any illumination out there. Do you plan on illuminating that parking lot?

Alan Bongiovanni: There is a lighting plan as part of the plans that we submitted a couple of weeks ago because the staff requested it. It's all down lighting.

Commissioner Anest: Could you see a high vehicle, an SUV type?

Alan Bongiovanni: The trees are going to be eight to ten feet high, and also a two foot berm there to elevate them further.

Commissioner Anest: I'm just saying, if you are saying.....

Alan Bongiovanni: An SUV is six and a half feet high. If you parked a FedEx truck you probably wouldn't see it on the other side of those trees.

Commissioner Claffey: In regards to the six parking spaces on the boundary along the church. Is there a large elevation change as you enter the parking lot to get to the old building? Meaning, the cars that are going to be parked closer to the building, would they be more visible than the cars parked along the street?

Alan Bongiovanni: The difference in elevation from the front of the parking lot towards the street to the back is less than two feet. So if it's two feet higher where the handicapped cars are, there is still going to have six feet of trees over them. An eight to ten foot buffer on a two foot berm is an absolute shield for the cars behind it.

Chairman Hall: Mr. Planner, do you see anything with the plans that were submitted tonight?

Craig Minor: I think this goes a long way toward addressing the concerns that the neighbors had. It's still up to the Commission to make that decision, though. It's subjective, it's your call; whatever you think sufficiently protects the character of the neighborhood.

Commissioner Claffey: Mr. Planner, can I have a clarification.

Craig Minor: Probably from Mr. Bongiovanni.

Commissioner Claffey: (Inaudible) I've never seen it, I do have a reason for bringing this up.

Alan Bongiovanni: The driveway for the handicapped drive has to be a two percent grade, maximum. The grade on the street is sufficiently steeper, in fact we're at 96 here, we're at 96 here, we're at 96 here, the road is 100.7. This road is 3.7 feet higher than the corner of that parking lot. In front of that parking lot you are going to have ten or twelve feet above that. So

not until you get up past Old Hatchery Lane are you elevated, is the south side elevated above the other side. I don't think there is anyone on any certain perch that is going to look down on this.

Commissioner Claffey: This is why I asked this question, because if you look at the plan, if you look, the houses are in this area, I don't know where they are specifically, but if a house is here, at 98 feet, you are less than two feet higher than the road, or lower than the road, excuse me, so it's a downward slope. My point being that, yeah, if I got on the roof of any of those houses, yes I would see the cars, but we base what we see and how we do it, on elevations. So if, another house is ten feet higher, we can't ask another property to go ten feet higher than that because unfortunately the person doesn't want to see something. If that was the case we would have everybody here saying they didn't want to see something all around town.

Chairman Hall: I don't think it's the cars that they are worrying about. I may be wrong, you see cars there all of the time. There have been cars there since that nursing home was built. I think it's the new building and the mass of the building that is the change, not the cars. I think we have spent a lot of time talking about cars...

Commissioner Claffey: Well, we're talking about cars because that's what we've been asking the applicant to delete.

Chairman Hall: Because that would enable him to move the buffer back, and if the buffer is moved back...

Commissioner Claffey: I guess I need to understand how that would change the look of the building.

Chairman Hall: It's not going to change the look of the building, it's a screen. I think that is the point, to create a screen because what they are seeing now is going to be significantly changed, with a mass. It's not the cars that come and go. It's not the cars that we are worried about.

Commissioner Claffey: But how does the buffer change the mass of the building?

Chairman Hall: The farther back you push it, the more buffer they have.

Commissioner Claffey: The logistics don't change. The height of 35 feet and the height of ten feet if you put the tree is still the difference than if you put the ten foot tree in front of the building. It's the same thing you are going to see from the road. I guess that is what I don't understand.

Commissioner Aieta: I think what happens is that you break up the mass of the building, you don't see the foundations, you don't see thirty five feet, it's green, and it breaks up the mass of the building. You have to admit this is a major change for the people who live in that neighborhood. This is a building that has been built out to what I would consider its maximum. Mr. Bongiovanni says that he could put another fifty units on there, I question that. This is like maximum build out, and I don't think these people that live there envisioned this when they bought their homes. Or when the first building went up and then the second addition, and then the third, and this is the fourth and those are all R-20 residential lots that should have been built, or normally would have been built as other houses that would have made that a different type of

a neighborhood, so anything that we can do to break up the....and satisfy those people that live there we should try to do.

Chairman Hall: That's the purpose of it, not to hide the cars.

Commissioner Claffey: But that's all we have spoken about for the last three meetings, how to hide the cars: This is the first time we're hearing it based on what we are going to see of the building. I thought these were separate.

Commissioner Camillo: This will hide the extra activity, the extra noise behind that screen.

Commissioner Claffey: Okay, with your point, the building is 45 feet to the right of the parking spaces, to the berm you want moved. Again, it goes back to being shielded from the berm, now you're asking them to move.

Chairman Hall: It does, it makes a significant difference.

Commissioner Aieta: Move that we put this on for Old Business for action at the next meeting.

Chairman Hall: Any discussion on that? Petition 29-15 will be moved to Old Business for discussion on the 12th of November.

Alan Bongiovanni: Thank you very much.

Chairman Hall: Don't go too far.

C. Petition #28-15: Site Plan Modification at 238, 256, and 268 New Britain Avenue (Bel Air Manor) Bel-Air Manor Associates, applicant, Bel-Air Manor Associates LLC and Salvatore Sbriglio et al, owners, Mathew Boggio, 88 Ryders Landing Suite 208 Stratford, CT, contact.

Alan Bongiovanni: Thank you, again for the record, Alan Bongiovanni, land surveyor in the State of Connecticut representing Bel-Air Manor. At the last meeting we presented our site plan for the previous application that we just discussed. The additional buffering and planting that we proposed for the site from the neighbors and Commission comments and as I said earlier, the site plan as we are proposing it provides for parking, safe site circulation. We have detailed a very elaborate landscaping plan to enhance the aesthetics of this facility, we've incorporated all of the town's requirements for LID in the drainage, so that not only have we basically improved the new work, we have improved the entire site if this is allowed to be constructed.

We are adding 45 beds to this, well within the zoning requirements; the zoning requirements allow up to 30 beds per acre. As Mr. Aieta said earlier, he would consider this the maximum build-out, and I would also. From the size of the building, from the size of the parking, I don't see that there is any other place to expand this. At 116 units I believe our final number is, I believe that is basically taking all of the usable land, and it's a maximum build up. It's currently served by MDC sewer and water. There are some adjustments to the sewer and Fire Service that have to be done, to accommodate this building. There are safe sight lines; the driveway is in the same location; I think it meets and/or exceeds all of your requirements, and I hope you see fit to approve it.

Commissioner Camillo: You just said about fire - does that mean bringing in a larger water main?

Alan Bongiovanni: We believe it will have to go to 8 inches. A 4 inch pipe is there now.

Chairman Hall: Anyone else? Mr. Planner?

Craig Minor: Mr. Bongiovanni discussed most of the items in my letter from September 16th. There are a few other things that are still outstanding, but they are minor and I have no problem with them being conditions of approval. I don't yet have a report from the Town Engineer but judging from the fact that they have gotten their Wetlands approval in record time I think, I think if the Town Engineer had any concerns with it, he would have pointed them out to me, so I would have no objection to going forward with it. You have already decided that you are going to approve the Special Permit next month, and my recommendation is don't approve the site plan until the Special Permit is approved.

Commissioner Aieta: I would like to move this to Old Business for the next meeting. The motion was seconded by Commissioner Anest. Consensus?

Chairman Hall: Okay, we will move this to Old Business for the 12th.

Alan Bongiovanni: Thank you again.

D. Discuss Zoning for TOD (Transit Oriented Development)

Craig Minor: Actually I don't have anything substantial for you. I was talking to some planners as to how much it would cost to do a VPS survey and I don't have anything yet to tell you about that.

E. Bond Reduction for Shady Hill subdivision.

Chairman Hall: When this came about I recused myself, so tonight I will do the same.

Craig Minor: This is a subdivision that was approved several years before I got here. When the applicant was ready to begin work, we talked about him posting the standard performance bond. He asked if there was another way that would not require him to put up that money as a performance bond. I told him yes. There is something called a "restrictive covenant" which is another way that towns do this. Under the restrictive covenant process, the applicant covenants not to sell any lots for the time being and builds the subdivision out of pocket; in other words, without the revenue from the sale of lots. That is what Mr. Allen did, with TPZ permission. He's now substantially finished with the road and is ready to start selling lots, but there is still a little bit of work left to be done, some \$50,000 worth of work, so he would like you to release him from the restrictive covenant and simultaneously approve a performance bond to cover the remaining work. I recommend that you do that.

Commissioner Aieta moved to release the restrictive covenant for the Harvest Ridge subdivision on Shady Hill Lane, and to approve a performance bond in the amount of \$50,500.

No conditions.

The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with four voting YEA.

F. Bond Reduction for Packard's Way subdivision.

Craig Minor: The subdivision is substantially complete. There is some \$14,500 worth of remaining issues but it's at the point where a reduction of the bond is appropriate. She will then have to post a road maintenance bond, which is the next phase of this when it moves on to be a town road, so she's probably not getting much cash back because it is going to roll over to a maintenance bond. This document says that all except \$14,500 of the subdivision and is acceptable to the town, is done, so I recommend that the bond be reduced down to \$14,500.00.

Commissioner Aieta: Where do we stand with the filing of the mylars?

Craig Minor: I spoke to the Town Attorney about this, and the Town Attorney informed me that the performance bond can only be held over the developer to assure compliance with the site plan, with the construction of the subdivision. If there are other issues that the developer has with the Town, like back taxes or other things, the Town has to use other methods to enforce them. He does feel that the Town has grounds to force the owner to file the mylars; he just doesn't feel that withholding the performance bond is the lawful way to get that compliance.

Commissioner Aieta: What are the other ways to get her to do this?

Craig Minor: The Town could take her to court for failing to comply with the conditions of the subdivision approval, which include filing the mylars.

Commissioner Aieta: So as a town, we have to spend money to get her to what she is supposed to do.

Craig Minor: Yes.

Commissioner Aieta: That's ridiculous.

Commissioner Sobieski: Mr. Planner, what is the status on all of the other work that was done there, i.e., the drainage issue that we keep hearing about? Once that property is sold, would she still be responsible for that, or would it be the owners of the lot? Once that property is sold does that mean she can't do what needs to be improved on it?

Craig Minor: I have talked to the staff about this. Before we approve any CO's for those lots, we inspect the site to make sure that water can drain from the north the way it is supposed to. In fact I was out there the other day with the staff and the site contractor for Lot #5 was there at that moment, fortunately, so the Town Engineer asked him while he was there with his equipment to dig a trench to make sure the water can flow from the north to the catch basin. That will be an ongoing obligation of the home owner because it is their requirement and we will enforce that on behalf of the property owner to the north.

Commissioner Sobieski: What about the stub of the pipe?

Craig Minor: We still don't know for sure that the pipe goes to the edge of the property. That is part of what this last \$14,500 is for. That \$14,500 won't be returned until we get a certified as-built from a surveyor showing that in fact the pipe does extend all the way, substantially all the way to the property line.

Commissioner Anest: I have a question. They are looking to have everything returned except the \$14,500 and that \$14,500 is to cover street trees, (inaudible) for one lot, pins and monuments and (inaudible) right?

Craig Minor: Right.

Commissioner Anest: Now, I'm being the devil's advocate. What happens if none of that gets done and the pipe isn't extended, and all we have is \$14,500.00?

Craig Minor: Correct.

Commissioner Anest: Would that cover to complete all of that work?

Craig Minor: It's not enough to do all of those things and extend the pipe if in fact the pipe is not the full distance.

Commissioner Sobieski: So basically if these items are not completed, the Town is going to be responsible for putting money out to finish them?

Craig Minor: No, we'll use her \$14,500 to finish them.

Commissioner Sobieski: If it exceeds \$14,500, then what happens? Who is responsible at that point?

Craig Minor: Then we either don't do everything on the plans. If we spend all of the bond money let's say to extend that pipe if it isn't extended the full distance, and there is not enough money left to buy street trees, then we probably wouldn't buy all the trees. That would be your executive decision.

Commissioner Anest: How much would it be to extend that pipe?

Craig Minor: We don't know that it isn't already the full extent.

Commissioner Anest: I know, but I'm being the devil's advocate - if it needs to be extended, what would it be?

Craig Minor: I don't know.

Commissioner Claffey: Why don't we have an estimate?

Craig Minor: Because we don't know if it's short. It might be exactly where it is supposed to be. We don't know.

Commissioner Claffey: Then actually we are voting on a hypothetical pipe. Well, if the pipe is not there and it costs more than \$14,000 then we're on the hook for that, and that's not good for our taxpayers.

Commissioner Aieta: I would like to not act on this at all. Keep this until the work is done and we find out exactly if the pipe is there or not, and no reduction at all. Don't come back with a reduction until we see that the pipe is there, that the lots are pinned, that some more work is done. We're going to keep the whole \$57,000. That would be an incentive for the developer to finish the work.

The motion was seconded by Commissioner Camillo.

Commissioner Sobieski: Mr. Planner, is there any way we could get an estimate of how much this would cost. Let's assume that as Commissioner Anest said, and there is not enough money to finish this project. So, if we don't have enough money to cap the road, the town is going to have to come up with some money. If we don't have enough money to have the property pinned, the town has to put some money up. I don't think the Town should be liable for a project that is not finished. That's just my opinion, and I agree with Commissioner Aieta that none of this should be lowered until we get an estimate from you or the Town Engineer or some other source that says, to cap the road is \$50,000, or \$20,000, just throwing numbers out. We need to know something because, plus you still have the mylars that have not been filed, and that is going to cost the taxpayers money if she doesn't file them, to go to court, am I correct? So I don't see, I see no upside to the town on this. I could be wrong.

Chairman Hall: Where do we get the estimates?

Craig Minor: From the Engineering Department. If the Town Engineer were here, he could tell you off the top of his head, \$63.00 per square foot...

Chairman Hall: So theoretically we could have that by the 12th of November.

Craig Minor: Oh, we would know by then if the pipe extends or not. By then, we could measure it and know.

Commissioner Aieta: Then we will take it up at that point. If we know that the pipe is in, fine, if it's not, then we'll know how much it costs and we'll know how much to reduce the bond.

Chairman Hall: Do we have consensus on that?

Commission: Yes.

IX. OLD BUSINESS

- A. Petition #38-15: Special Permit (Section 3.11.6: Restaurant) at 39-41 Market Square. Sarjac Partners LLC, owner, Nichole Vega and Michelle Dickenson, applicant, Nichole Vega, 163 Francis Street, New Britain, CT, contact.**

Commissioner Camillo moved to approve Petition 38-15: Special Permit (Section 3.11.5: Restaurant) at 39-41 Market Square, Sarjac Partners LLC owner, Nichole Vega and Michelle Dickenson, applicants, Nichole Vega, 163 Francis Street, New Britain, CT, contact.

No conditions.

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

B. Petition #39-15 Special Permit (Section 3.11.1: Health Club) at 135 Lowry Place. Lowry Place Realty LC, owner; Connecticut Kenpo Karate, applicant; Wayne Tanguay 48 Buckingham Street, Newington CT contact.

Commissioner Aieta moved to approve Petition 39-15: Special Permit (Section 3.11.1 Health Club) at 135 Lowery Place, Lowery Place Realty LLC, owner, Connecticut Kenpo Karate, applicant; Wayne Tanguay, 48 Buckingham Street, Newington CT, contact.

No conditions.

The motion was seconded by Commissioner Sobieski. The vote was in favor of the motion, with four voting YEA and one abstention (Anest).

X. PETITIONS FOR PUBLIC HEARING SCHEDULING

A. Petition #40-15: Zoning Text Amendment (various sections) to allow second and third floor apartments in business buildings per Section 3.13.3 in all Business Zones. Thermopylae LLC, applicant, Mark DuPre, 49 Mountain Road, West Hartford CT, contact.

Craig Minor: We received two applications that require a public hearing. The first for a text amendment to allow second and third story apartments in business buildings per Section 3.13.3 in all Business Zones.

Currently this is allowed only in the Town Center zone. The applicants own property on the Berlin Turnpike and they asked if they could submit an amendment that would allow this also in the Berlin Turnpike Zone. I told them that I think allowing apartments on the second floor of a small business building like in the Town Center zone makes sense, but I'm not sure it makes sense on the Berlin Turnpike. So I suggested that they expand the application to include all Business zones. If the Commission approves the amendment, he understands that he would have to come back and take his chances of getting it approved for his building on the Berlin Turnpike. That would be a separate issue for the Commission to decide. So he submitted the application to amend the regulations town wide. It will have to be submitted to CRCOG thirty days before the hearing, so the earliest hearing would be at your meeting on November 28th. That is the second meeting that you moved because of Thanksgiving. So that is the earliest that the hearing can be.

Chairman Hall: No, not the 28th, the 23rd.

Craig Minor: 23rd, that's right. Then he will make his pitch. I can see that he is going to have an uphill battle. I think it's worthy of discussion, and if you decide at the end of the day that it is not appropriate, fine, but I think it's worthy of discussion.

Commissioner Aieta: I don't believe that it is worthy of any discussion and I think we did him a disservice because he came in and asked for a specific thing on the Berlin Turnpike in a specific zone, and you recommended that he try to change it to all over town. There is no way that this is going to get by this Commission. I wouldn't even want to see it on the Berlin Turnpike. Specifically in the 2020 Plan, and looking at second floor apartments, we restrict them to the center of town for a specific reason. The Berlin Turnpike is not an area where we would like to see residences above those businesses. There's no sidewalks, there's no amenities that they could walk to, I don't see it as a plus for anybody. I know he has some problems with the building because they didn't put an elevator in. Is there a violation? Is someone living there now?

Craig Minor: I don't think so.

Commissioner Aieta: You said there were violations.....

Craig Minor: I'm just saying in principle it is hard to rent a building of that sort without an elevator.

Commissioner Aieta: The building was not designed to have a second floor. It's a pitched roof. You would have to do renovations, put gables on to make it livable for a second floor.

Craig Minor: It is natural to talk about where he wants to do this, but the application is for a text amendment, so we need to think globally.

Commissioner Aieta: This shouldn't be opened up for every zone in the town. Because the zoning regulations are pyramided, we would be opening it up for every place in the town.

Craig Minor: In the zones that I mentioned. It would be in the B Zone, the B-BT Zone and maybe the PD.

Chairman Hall: Let's try to get some more information and then we will listen. He does have the option to come before us.

Craig Minor: I just want to add one thing. I encouraged him to modify his application. Should I go back to him and tell him to submit what he wanted in the first place, and take his chances with the just Berlin Turnpike Zone?

Commissioner Aieta: He can come in and if he wants to spend his money, that is up to the applicant. Everybody has the opportunity to try to convince this Commission to change the regulations. I think this is not an uphill battle, I think this is like trying to climb Mount Everest.

Chairman Hall: All citizens have the right to come before us.

Craig Minor: Okay, he'll be here on the 23rd.

B. Petition #41-15: Special Exception (Section 3.2.9): Adult Day Care at 26 Church Street, New Life Adult Day Care Inc., applicant, Vaishnav Parivar of Connecticut Inc., owner, Sarchin Patel, 69 Cherrywood Drive, Nashua, NH, contact.

Craig Minor: This is for an adult day care at the Hindu temple at 26 Church Street, and it's an adult day care which the regs allow by Special Permit, so I have no objection to scheduling this for your next meeting which is on the 12th.

Commissioner Aieta: Is this, this name sounds very familiar, New Life Adult Day Care Inc. It sounds like they have been here on other pieces of property. Is this a for-profit business?

Craig Minor: We did some research into that. They are based out of New Hampshire. They have adult day cares in New Jersey and I think if I'm not mistaken also on the east coast and it is the same company.

Commissioner Aieta: It's a for-profit company.

Craig Minor: I don't know if they are for-profit, or if they are a non-profit. That I don't know, but they are an existing business and now they are looking to come to Newington.

Commissioner Claffey: To open a business in a church, is that how I'm seeing this?

Craig Minor: Yes. It's a day care. We do it all the time.

Commissioner Claffey: Would it be tax revenue for the town?

Craig Minor: That would be a very good question to ask them during the hearing.

Commissioner Aieta: There is some activity going on at that location now. There are tents in the back, and there's construction. Is anybody aware of what is going on?

Craig Minor: Probably everybody in the building and zoning departments except me knows what they are doing.

Chairman Hall: And maybe the people on Old Hatchery Lane. It's in their backyard.

Commissioner Aieta: I just hope they are not doing construction for the adult day care without the approval of this Commission for this application.

Craig Minor: I'll find out.

X. TOWN PLANNER REPORT

A. Town Planner Report for October 28, 2015

No report.

XI. COMMUNICATIONS

Craig Minor: I got notice from the Town of Wethersfield that the Back Lane subdivision has been scheduled for a public hearing on November 17th.

Chairman Hall: And it's 7:00 isn't it?

Craig Minor: Yes, 7:00 p.m. on the 17th.

Chairman Hall: And it's the usual spot?

Craig Minor: Town of Wethersfield, in the council chambers.

XII. PUBLIC PARTICIPATION (For items not listed on the Agenda, speakers limited to two minutes.)

John Bachand: We were discussing the pinning and I can tell that the property has been pinned on my side. The channel is opened up. The pipe doesn't extend to the property line, I know that for a fact. I don't think it would be too costly to do that. The problem is, who owns the property? Because as someone alluded to, if you have to negotiate with the property owners to do it, it could be a little bit dicey. Once the road is accepted, the way that I understand it then the Town, I assuming they can go in there because they have a maintenance easement, I would like to see that get done. Again, I don't think it would be very costly. If there is no negotiating with the property owners, and there was no extra cost, I don't think it would be more than a couple thousand dollars to dig a hole and extend the pipe two feet, or eighteen inches actually, it's eighteen inches short. So I just wanted to say that. I'm a little bit more comfortable with everything because I met the new neighbors. I've always been blessed with having excellent neighbors and that seems to be the case here so I do not foresee any civil fights over the drainage.

Two things that I have been asking for for three years now are the filing of the plans, because one of the pages of the plans did have that specific wording, the only place that it exists anywhere, is on one of the pages of the plans that says the property to the north has the right to drain. I'd really like to see that get filed and maybe you can do it when you got that Certificate of Action finally got filed, you know what I'm referring to. So maybe we could do it that way, some way that it's on a permanent land record. Thank you.

Bill Prentice, 61 Maple Hill Avenue: I'm not sure if this is Old Business or New Business.

Chairman Hall: If it is listed on the agenda, it is not for public participation.

Bill Prentice: Well, like John just said, I'm trying to give you more information. The pins are in on that property, I was there and saw them, the surveyor, put the pins in. I'm not sure who gives him the right to (inaudible) that because the big thing now is the rain water and now you are saying put the drain on his property, so I'm not sure how that works, but this bond which has been brought up with my sister-in-law that she's not getting any money back because they want to hold the road for another two years to see what happens. Mr. Minor and Chris decided that she needed to use plastic pipe instead of concrete pipe so there is a lot of stuff going on here that is not being brought forward. She should be getting her money back and a maintenance

bond is ridiculous. The road has been there for over two years now, and then they want to go another two years just in case something happens. Well, we could do that with every road in Newington. I mean, it's a (inaudible), for her not to get money back, I mean, the first thing was they wanted grass seed on all six lots, seed the whole thing. I talked to Steve Woods, and he said he never heard of such a thing. These are things that they are making up, holding a road for another two years because they are afraid of something? I mean, they are the ones that made the changes in the road, they are the ones that said, no we're not going to change the pitch going toward Maple Hill Avenue. They are the ones who required another \$63,000 for plastic pipe from some company in Pennsylvania. So this is just a snowball, and it's strictly because they think they can get away with it. It's ridiculous, it's absolutely ridiculous what's going on. He said maintenance bond, don't give her any money back, but he's not telling you that they want to hold it for two years. Who does that? No other town has ever done that. Anybody that you talk to has never heard that. So, it's just frustrating to hear this you know, and you're right, it probably would cost more than \$14,000 but like John says, the pipe is this much short, but what they aren't telling you is it is running into a tree that is probably three feet in diameter. So I'm not sure what he is going to do when it comes time to hook up to this thing. They stopped digging because they were probably going to kill the tree if they kept going. That is exactly what the blueprint shows, that pipe running up there, and he just found out that he has another couple of feet of property that he didn't know that he had by the final survey. I'm not sure, people put trees on your property, but the people who are living there now, I know them, they don't want trees in their front yard. I know you have to put the two inch sugar maples in the yard to make everybody happy, but the people don't want them, so you are holding money against her for something that people don't even want? Maybe someone wants to stick a dogwood in, I don't know, but to hold money back from somebody that has been going on for seven years, this road, it astronomical to me as to how it can take this long to have her get her money back. I know you guys don't know exactly, given the information, but the pins are installed, the pipe is eighteen inches short, I mean, she doesn't own any of these lots, like you were saying the word "developer". Who is the developer? These people now own these properties. They want to put Kentucky Blue Grass in, that's what they are going to put in. She shouldn't be made to seed I don't know how many square feet of property. I'm saying, they just make stuff up. No developer has ever done that. I have a lot two down from me, totally overgrown. There is no grass there. Why wasn't that seeded? You just can't make stuff up because you feel like it, and you just, well, we've got to cover ourselves. She's not trying to hang anybody out to dry. Ed Meehan signed the sheet of the mylars, whether they got lost, whether they never got delivered, I don't know, but that is the big issue with the mylars. That front sheet is signed by Ed Meehan, I've seen it, and the mylars that they are going to give you are strictly just a copy of the blueprints. Nothing has changed.

Chairman Hall: Thank you. Your time is up.

Bill Prentice: Okay, thank you. I'm done.

Rose Lyons, 46 Elton Drive: I was watching from home and I wasn't going to come up tonight, but I decided I would because last night at the Town Council meeting they had a Kumbaya moment, everybody was happy at the beginning, and not so happy at the end. I don't know how things are going to roll with the election and I don't know how the terms run around here, but I wanted to once again say thank you to all of you around this table for the time that you have put in, the way that you conduct yourselves. You may agree to disagree, but it's pretty civil most of the time around this table. Commissioner Anest, I hope we will be seeing you at this table as a

member of the Council, and that remains to be seen as well, but I just have to say, how nice it is to see people (inaudible) and what you do has a tremendous impact on the town. Thank you, thank you.

XIII. REMARKS BY COMMISSIONERS

Commissioner Camillo: Just one thing. When we did our field trip to look at Packard's Way, we looked at the road and saw the road had collapsed. Has that been repaired?

Craig Minor: Yes. That was one of the holdups, because we didn't know why it collapsed.

Commissioner Camillo: Why did it collapse?

Craig Minor: We still don't really know.

Commissioner Camillo: Was it not compacted, or...

Craig Minor: We don't one hundred point two percent know. I'm speaking for the Town Engineer here because he is the one who is out on a limb here, and he is comfortable, he's confident, comfortable, whatever word you want to use, that we know why the road failed and that he is ninety-nine percent certain that he has been fixed.

Commissioner Camillo: Why?

Craig Minor: It probably just wasn't compacted properly. But we don't know that. When I was in Cromwell there was a very similar subdivision where there was a catastrophic failure, and there was not enough money left in the performance bond because the engineering staff had recommended approving bond releases. There was not enough money to fix what went wrong. The Town Engineer and the Engineering Technician lost their jobs over that. So, the staff here is being cautious with this one, which is a very unusual subdivision. This subdivision was approved with the drainage system in the middle of the road, which is unheard of. That is why the staff is being cautious, to protect the town's interest. That is why the staff has recommended a two-year instead of a one-year maintenance bond, because it has never been done before. We told the developer to use a different pipe for the detention system than what was spec'd on the plans because we went to the manufacturer and he said, wait a minute, that product isn't designed for that purpose. The manufacturer said, no, use this different product instead. I could go on, but what you heard tonight, let's just say they were half-truths.

Commissioner Anest: I just wanted to report, and I didn't get a chance to do this at the last meeting, that at the last regional planning commission meeting of CRCOG we had a report on the I-84 project. Being from Newington, I always have to ask my questions and was definitely concerned because one of the suggestions as everybody knows is the possibility that they close the highway down. It would take a year if they were going to do the whole thing. If not, it will take eight years to complete.

So I asked, what happens to the traffic? And they said they would divert the traffic down New Britain Avenue, and I said people are then going to go through the streets of Newington to the Berlin Turnpike they could tack onto it. They also said that they were going to encourage

people to use the CTfastrak and do the buses double lanes into Hartford, both lanes in the morning, and then out of Hartford, both lanes in the afternoon.

Commissioner Camillo: Where are the cars going to park?

Commissioner Anest: That's what I asked, and they said they will be looking at additional locations for people to park their cars. So I think we need to pay attention to what is going to happen as the next couple of years go down while they are planning which way they are going to go. They did say they would be looking for additional land to build parking lots around the transportation of the buses. I just wanted to make everyone aware of that, that we need to pay attention to what is going on around us and what is going on at the state level and DOT, what they want to do to our transit station.

Commissioner Sobieski: Mr. Planner, back to Packard's Way for a minute. I remember when we were out on an inspection, and they were talking about cameraing that system, has that been done?

Craig Minor: I don't think that the developer was made to do that.

Commissioner Sobieski: You would be able to find out if there are any more failures having done that. I'm just asking the question because I remember Mr. Greenlaw saying that they were going to look at cameraing because of the slippage in several places, not just one. I was just wondering if that had been done because you are right, there is no other road in the State of Connecticut that has a drainage system in the middle of it.

Craig Minor: I can tell you, they didn't camera it.

Commissioner Claffey: Just a comment on what Commissioner Anest said. If you have driven by the CTfastrak in West Hartford, in Elmwood at the corner of New Britain Avenue and New Park, they have started putting additional parking there, so they are on the move to find it. They have already started with the lot right next to it. That was grass. Actually no, it's not. On the other side of the housing. The proposed housing is the old Pontiac Center, the four story apartment with retail below. It's on the same side as the parking, the brook cuts it. They have started this week. They have already curbcutted it and ready to try to probably pave it by the end of the month. Newington has a lot of flat land around it, so, just be aware.

Commissioner Aieta: Just a quick comment. This is ridiculous. They built this CTfastrak in the Town of Newington and they put parking for twenty or thirty cars, and then they come back not even, the paint on the center line is not even dry, and they are talking about....what does that do to our TOD? What are we supposed to do? It's not the biggest and best use of our land to make it a parking lot, and then close down 84 and have the whole Town of Newington become an east/west route of 291. New Britain Avenue, Cedar Street, all our east/west streets will be clogged to the point where you won't be able to move in the morning and afternoon.

Commissioner Anest: I think it's time for Cedar Street to have a road diet, go down to two lanes, a suicide lane in the middle and two lanes on the side. The same as they are proposing in West Hartford. Maybe that is what we need to propose for Cedar Street.

Commissioner Claffey: In reference to that, North Main in West Hartford, is that a state road?

Commissioner Camillo: Yes.

Commissioner Claffey: So we could ask them to come and give us a road diet, just like West Hartford.

Commissioner Anest: That is the only way we are going to get less traffic. If people can't move on it, so they are going to find another way. Let them find another way outside of Newington.

Commissioner Aieta: If they close I-84 people on Route 9 will get off on Fenn Road and they will come through...

Commissioner Anest: Or they will get off on New Britain Avenue and come down Newington Road, or Main Street.

Craig Minor: I'll tell you a story. I had to go from Bristol to Manchester a couple of months ago, around six o'clock pm, and Google Maps told me to take Route 9 to Cedar Street to the Berlin Turnpike.

Commissioner Camillo: That's where I-291 would have helped a lot.

XIV. CLOSING REMARKS BY THE CHAIRMAN

Chairman Hall: See you on the 12th of November.

XV. ADJOURN

Commissioner Anest moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 9:15 p.m.

Respectfully submitted,



Norine Addis
Recording Secretary