TOWN PLAN AND ZONING COMMISSION

SPECIAL MEETING
Wednesday, October 28, 2015

Town Hall *Conference Room L-101*
131 Cedar Street, Newington, CT 06111

6:00 p.m.

A G E N D A

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BY
TOWN CLERK

I. ROLL CALL AND SEATING OF ALTERNATES

II. REVIEW OF ZONING REGULATIONS

a. Discuss Reinstating Previous Auto-Related Use Regulations

b. Section 7.1: Enforcement

c. Section 7.2: Zoning Permits

d. Section 7.3: Surety

III. ADJOURN

Submitted,

Craig Minor, AICP
Town Planner

TOWN OF NEWINGTON

131 Cedar Street Newington, Connecticut 06111

John Salomone
Town Manager

Town Planner

Craig Minor, AICP
Town Planner

Memorandum

To: Town Plan and Zoning Commission

From: Craig Minor, Town Planner

Date: October 8, 2015

Re: **Pre-2007 Auto-Related Uses Zoning Regulations**

At the last TPZ meeting I was asked to provide the members with the auto-related zoning regulations that were in effect prior to the changes approved on July 25, 2007.

I found that many changes were made in 2007 to Sections 3.11, 3.12, 3.13, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.12, 4.4, 5.3, 6.1, 6.2, 6.4, 6.5, 6.7 and 6.11. Only a handful of them applied to auto-related uses:

1. "Sale, service, rental or repair of motor vehicles" was deleted from Section 3.11.3 making it no longer allowed by special exception in the B zone. Newington has what is called "pyramid zoning", so these uses were automatically also prohibited from the B-BT zone and the PD zone.

2. "Automotive uses as permitted by the General Statutes" was removed from Section 3.16.1.(F) making it no longer allowed as of right in the Industrial zone. It was moved to Section 3.17.8 making it allowed by special exception in the Industrial zone.

3. Section 6.11 (the section that defines auto-related uses) was amended to prohibit "any use relating to motor vehicles…within 50 feet of a residential zone".

4. Section 6.11 was also amended to designate the Zoning Board of Appeals as the local authority for approving a DMV "certificate of location".

What used to be called "sale, service, rental or repair of motor vehicles" is now split into two separate categories. One of these categories ("motor vehicle service") is allowed by special exception in several zones: the I zone, the B-BT zone, and the PD zone. The other category ("auto-related") is allowed by special exception in the I zone only. "Auto-uses" are car dealers, car washes and car rental agencies. "Motor vehicle services" are gas stations, tire stores, and limited repairers.

cc:
file

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STAFF REPORT
Complete Review of Zoning Regulations

October 20, 2015

Petition #02-15:
Zoning Amendments Town-wide
Town Plan and Zoning Commission, applicant

Description of Petition #02-15:
This is a complete review of the current zoning regulations, making minor adjustments. A single public hearing will be held on all of these changes in the near future.

Staff Comments:

1. Discuss Reinstating Previous Auto-Related Use Regulations: At the regular meeting on October 14, 2015 the Commissioner decided to discuss this item at the next special meeting. Attached is the memo that I prepared for the regular October 14, 2015 meeting.

2. Section 7.1 (Enforcement): This section describes the duties of the Zoning Enforcement Officer. The regulations currently say that he is required to keep all the files on all zoning approvals including special permits, which in reality I do. I changed this to make him responsible only for the files that pertain to his duties.

3. Section 7.2 (Zoning Permits): I added "sign" to the list of things that require a zoning permit. I changed "the ZEO may require **the** plot plan" to "the ZEO may require **a** plot plan" and added "location of the structure" because the Building Department does not always require a building permit applicant to submit a plot plan. This change gives the ZEO the authority to require a plot plan whenever he feels he needs one to determine if the proposed structure is in compliance with all pertinent zoning regulations.

I also added a new section regarding Statement of Zoning Compliance. We have been inundated lately with requests from firms that do "due diligence" research for lenders and investors. We do the research, and they charge the money. This will put a cap on the amount of research we will do, for a nominal fee.

4. Section 7.3 (Surety): I did some re-wording so that this rather confusing section makes more sense (I hope). I did not make any substantive changes to it.

cc:
file

New text proposed by staff is shown in **bold underline**. Text proposed by staff to be deleted is shown in ~~**bold strikethrough**~~.

SECTION 7
ADMINISTRATION

Section 7.1 Enforcement

7.1.1 Zoning Enforcement Officer

The Town Manager shall appoint a Zoning Enforcement Officer, and may appoint one or more Deputy Zoning Enforcement Officer(s) who shall have the responsibility and authority to enforce the provisions of these regulations. Such Officer may cause any building, land or use to be inspected and may order in writing any person to correct or abate any condition violating these regulations. He shall keep on file for public inspection a full and accurate record of all applications, permits, certificates and other records ~~**required by these regulations or**~~ pertaining to his ~~**services**~~ **duties.**

7.1.2 Penalties

Any person, firm or corporation, violating any of the provisions of this regulation shall for each violation upon conviction thereof pay a penalty as set forth in the Connecticut General Statutes.

7.1.3 Zoning Citation Ordinance

In addition to the enforcement procedures and penalties set forth in the Connecticut General Statutes, any person, firm or corporation, violating any of the provisions of the Zoning Regulations may be cited and fined pursuant to Chapter 13, Article IV, and Chapter 2 Article XVI, Section 2 of the Newington Code of Ordinances, Zoning Citation, adopted in accordance with Section 8-12(a), Connecticut General Statutes.

Section 7.2 Zoning Permits

7.2.1 Application for Zoning Permit

Prior to the construction, reconstruction, change of use, enlargement, extension, moving or structural alteration of any **sign,** building or other structure (other than a permitted fence), and prior to any occupancy, use or change in use of any land, building, or other structure or part thereof, an application for a Zoning Permit shall be submitted to the Zoning Enforcement Officer. If the Zoning Enforcement Officer shall find the proposed building or other structure or use in compliance with these regulations, he shall issue a Zoning Permit, provided no such permit shall be issued for a use requiring a site plan, special exception or special permit, until such site plan, special exception or special permit has been granted by the Commission.

The Zoning Enforcement Officer may require ~~the~~ **a** plot plan to indicate the **location of the structure and** measures to control soil erosion that shall be in place prior to the start of construction. (Effective 3-4-2011)

7.2.2 No building permit shall be issued unless a zoning permit has been issued by the Zoning Enforcement Officer. Zoning and building permits may be issued simultaneously or separately.

7.2.3 Certificate of Zoning Compliance

Prior to the issuance of any Certificate of Occupancy by the Building Official, an application for a Certificate of Zoning Compliance shall be submitted to the Zoning Enforcement Officer. If the Enforcement Officer finds the building or other structure or use in compliance with an approved site plan, special permit or exception, and with these regulations, he shall issue a Certificate of Zoning Compliance. Certificates of Occupancy and Zoning Compliance may be issued simultaneously or separately.

A certificate of Zoning Compliance may be issued for individual buildings within a multi building complex that are in compliance with the provisions of the approved site plan, special exception or special permit even though other structures in the complex are not yet in compliance and provided bond surety has been posted pursuant to Section 7.3.

The Zoning Enforcement Officer shall provide a Statement of Zoning Compliance upon request, and upon payment of the fee established by the Town Manager.

7.2.4 Permits required by this section are in addition to, and not in lieu of, all other permits and certificates required by other ordinances and regulations of the Town.

Section 7.3 Surety

The Commission may require ~~**as a condition of approval of any site plan,**~~ adequate surety to insure that the improvements shown on such plan are made. Surety will not be required if all the improvements are completed prior to the application for a Certificate of Zoning Compliance.

7.3.1 Procedure

If a Certificate of Zoning Compliance is desired prior to the completion of all the site improvements shown on a site plan, the following procedure shall be followed.

A. The site must be constructed, developed or improved to a condition adequate for safe access or movement of people and goods on the premises.

B. The Developer shall notify the Town Planner of intention to post Surety for completion of the site plan improvements. The Town Planner shall coordinate the posting of this Surety with the Town Engineer and the Town Manager.

C. ~~**The Town Engineer shall estimate the cost of completion within the time period for such improvements and submit a recommended amount of surety to the Town Planner**~~. **The Developer shall provide the Town Engineer with an estimate of the cost of completion. The Town Engineer shall review the estimate and submit a recommended amount of surety to the Town Planner**.

D. The Developer shall post cash or other negotiable security with a forfeiture clause, as approved by the Town Manager, with the Manager. The **negotiable security** ~~**Surety**~~ that can be accepted by the Town Manager shall be limited to certified check ~~**, passbook/ certificate of deposit,**~~ or a letter of credit. No insurance bond will be acceptable.

E. The Manager will notify the Town Planner that a Certificate of Zoning Compliance may be issued for the structure or use once the Surety is posted.

F. The time period for the completion of the site improvements covered by the posted Surety shall not exceed one year. If the work is not completed within one year, the Commission shall instruct the Manager to notify the Developer that the improvements are incomplete and that the Surety will be expended by the Town to effect completion of the improvements.

The Town Manager shall notify the Developer **(**and Surety Company **if applicable)** in writing of the default, and that if said improvements are not completed in thirty (30) calendar days, weather permitting, (first day shall be the date of the letter), the Town shall correct the deficiency (ies) and execute the Performance Bond and/or Surety to cover the cost to the Town.

The Developer may request the Commission to extend the time period for completion of the improvements for up to six (6) additional months, provided the Commission finds that unusual conditions or undue hardship justify such extension. At the completion of the extension period, the Manager shall be empowered to expend the Surety to effect completion of the improvements, or application may be made to the Commission to renegotiate a final date.

G. When the Developer has completed the subject improvements or portions thereof, application may be made to the Town Planner requesting the Commission to reduce or release the Surety.

H. The Commission shall approve the release and reduction of all ~~**bond surety**~~ **Performance Bonds and Sureties**.