

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

September 10, 2014

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 Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Carol Anest
Commissioner Michael Camillo
Chairman Cathleen Hall
Commissioner Robert Serra Sr.
Commissioner Stanley Sobieski
Commissioner Brian Andrzejewski - A

Commissioners Absent

Commissioner Richard Khentigan - A
Commissioner Kenneth Leggo

Staff Present

Craig Minor, Town Planner

Commissioner Andrzejewski was seated for Commissioner Leggo.

II. APPROVAL OF AGENDA

Craig Minor: One change: the applicant did not post the red and white public notice sign for the CT Workout application, so I recommend that be postponed until next time.

Chairman Hall: And we will say this more than once tonight: the next meeting is Monday the 22nd. We're doing that because Rosh Hashanah is on Wednesday that week, so therefore we are moving our meeting back, and also, while we are at it, in November we do the same thing around Thanksgiving so for those who are watching or are in the audience, try to keep that in mind that two months we do change our meeting from a Wednesday to a Monday.

Posting of that sign will give them enough time, because I know it was out today, and that will give them enough time to be able to present next time.

III. PUBLIC HEARINGS

- a. Petition 44-14: Special Exception (Section 6.15.6 Health Club) at 37 Ann Street, 37 Ann Street LLC, owner, CT Workout applicant, Benjamin Petitpas, 87 Market Square, Newington, CT, contact.

Postponed.

IV. PUBLIC PARTICIPATION FOR ITEMS NOT LISTED ON THE AGENDA, (speakers limited to two minutes.)

Attorney Tim Hollister: Good evening Madam Chair and Commissioners, I'm Attorney Tim Hollister. I'm here representing Modern Tire and the Pane Road automotive uses. We were here on August 27th, and you should have the September 4th letter from me. I assume that was distributed, Craig?

Chairman Hall: We will have it this evening for the members.

Attorney Hollister: Well, I hope you look at it at some point. I just want to follow up and clarify two things. We agree that the Commission is not under any particular time table to do any wholesale re-write of the automotive use regulations, but you are under a court order to address the repeal of the four regulations that Judge Mottolese invalidated and that really cannot wait, at least in the sense that the regulations need to be clear and my clients who won a judgment are entitled to enforcement of that judgment. So I just want to make it clear that we, and I communicated this to Attorneys Bradley and Boorman, that we are asking for a prompt and specific time table for repealing the invalidated four specific sections that were pointed out. We have the remedy of going back to the court and asking the judge to enforce that, but I hope that won't be necessary, but I just wanted to make it clear, you can take your time on re-writing them overall, but you need to address those four specific provisions promptly. Thank you.

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

Colleen Bielitz, 2110 Main Street, Newington: Good evening Madam Chair and Commissioners. I read the minutes from the August 27th meeting and I agree with Commissioner Aieta and his suggestion that a sub-committee be created to meet and review the auto regulations. According to the minutes, Commissioner Aieta stated that after four hearings a judge ruled against certain regulations. As residents of Newington we are requesting that the Zoning Commission invalidate any special permits and site plan approvals that were issued based on any invalid sections of the regulations, and ask that you act immediately to remove the invalid regulations. It's an obvious problem if Mr. Minor you state:J that there were twenty to thirty different sections that really need to be addressed, and I don't understand how you could leave this open when a court has ruled them invalid, and what do you do when new businesses come in and ask about, you know, if they wanted to have that particular business start, do you say, well, you know what, we have about twenty to thirty items and a court has ruled that some of them are invalid, but here take a look at these. I think that this is something that needs to be addressed and if a subcommittee needs to be created to address those regulations, I think it should be.

We feel that the proposed Wex-Tuck site directly abuts residential property, we have the right to make such a request. I will note that in your auto related uses, Section 6.11.3, it states that an entrance for auto related uses and motor vehicle services shall be at least one hundred feet from a church, school, playground, hospital or residence, and that the entrance on the west side of Bonefish, which I believe Firestone was planning to use because they can't leave via the Berlin Turnpike exit, does not comply with this regulation as the Department of Transportation-owned house has been zoned residential. I am opposed to the proposed Firestone site on the Berlin Turnpike. I will reiterate the 2020 Plan of Development strategy is to protect residential property and I think after the voting yesterday in regards to saving open space, you have heard how your residents feel. Thank you very much.

Chairman Hall: Thank you. Anyone else wishing to speak?

Attorney Amy Souchuns with the law firm of Hurwitz Sagarin Slossberg and Knuff of Milford: We represented Bismarck Real Estate in the 2013 approval. All I would like to do is submit for the record a copy of a letter in response to Attorney Hollister's letter.

John Bachand, 56 Maple Hill Avenue: Couple of items. I had tried to correct for the record some what I thought were certain mistakes made by the Planner. I understand that you received the letter? Did anyone receive the letter?

Commissioners: What letter?

John Bachand: Where I was correcting the Planner's statements from the last meeting.

Chairman Hall: Well, why don't you just give us the background, John.

John Bachand: Well, I was surprised that you wouldn't put it on the agenda, because it was a correction of record testimony.

Chairman Hall: Okay, what else, John?

John Bachand: That's pretty significant right there. I did have one other question for the Planner. I've been waiting for two months for an answer, he was consulting with the Town Attorney on the situation next to my house with the subdivision.

Craig Minor: (to the Chair) Do you want me to answer that? I can give him a quick answer on that. Yes, the Town Attorney did ask me to do some research into what the Commission might have done in the three months between when the plan was approved by the Commission and when it was filed. I need to go back and read through the minutes of TPZ meetings for several months, at the request of the Town Attorney.

John Bachand: In other words, to see if there was an extension granted.

Craig Minor: Right.

John Bachand: So we will have to wait a little bit longer to get the final answer on that. I know what you will find, but regarding my letter, I'm not sure where to take this. I was hoping it would get on the agenda. It was pointing out inaccuracies that the Planner made at a public meeting on the record. I tried to correct it, it's in the minutes, and I just wonder, first of all, where does that letter go? It's not on the agenda, so where does it go? I understand that you all got copies of it, but what happens to that letter?

Chairman Hall: We didn't put it on the agenda because then you wouldn't be able to speak to it, so we thought we would let you speak to it.

John Bachand: Okay, I appreciate that then. So then, does the letter become part of the record somewhere, or..... So basically I probably should have brought it here and read it for the minutes.

Chairman Hall: That's what you normally do, so, was it the one with the map attached to it?

John Bachand: No.

Chairman Hall: That was a different one, okay.

John Bachand: It corrected Craig's, the Planner's, statement that the pipe that I have been looking for to be put on the plans of the subdivision next to me was actually there. We went back and forth arguing over that, but for two years he has agreed with me that it wasn't there, and then all of a sudden one meeting, I don't know if he just forgot or something changed that I don't know about, but he claimed that it was there, so I need to correct that.

Craig Minor: Can I just discuss the logistics of the letter? I'm not going to get into the substance of what he is saying, but if you want to send the Commission a letter, send them a letter. Write a letter, mail it to us, give me copies and I'll distribute it. Sending an e-mail is not sending a letter. No offense, but we are not your courier.

John Bachand: Okay, I sent a letter via e-mail, and you told me that you distributed it to the Commission. Are you saying that that didn't happen?

Craig Minor: I don't think I said that I did.

John Bachand: So there will be more corrections coming at the next meeting because I'm pretty certain that you did. I don't know where to go from there, but again, I'll finish quickly, verbally I'll just bring this up, you made a claim that the pipe that I have been looking for to be placed on the plan, you made a claim that it was actually there. So, did something change that I don't know about, or did you just make a mistake?

Craig Minor: Again, if the Commission wants me to spend an hour to go into the history of this project and explain all the details, I'll do that, but I don't think the Commission wants to do that.

Commissioner Aieta: At some point we are going to have to get to the bottom of this because we can't have Mr. Bachand coming in here and asking the same question, over and over and over again. Let's give him an answer one way or the other. I mean, it's got to get resolved. It just can't keep going on forever.

John Bachand: It's been two years.

Commissioner Aieta: He's brought up some legitimate points that we have to answer.

John Bachand: It's literally been two years. It started in September of 2012 when I first brought in this question, and you told me at that time you were going to march down to, not march, go down to the records, land records and file the plan and correct the plan and all of that, and then you later explained to me that that was not a simple thing to do, so since then there have been all these other different ways you were going to correct it, which I've been very patient with, but then when I heard you say that you changed your approach completely and telling me that I had an illegitimate claim, or that what I was saying was not accurate and the pipe was actually there, that's what caused me to write the letter and, I guess the letter that nobody has seen.

Craig Minor: I'll do whatever the Commission wants.

John Bachand: I think I've had enough for now, and I'll wait on those couple of items. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak?

Lori Dubowsky, 2107 Main Street: I am here tonight to once again speak against the proposed Firestone site on the Berlin Turnpike. We have told you of our concerns at many town meetings. As residents of Newington we ask that the Zoning Commission invalidate any special permits and site plan approvals that were issued based on invalidated sections of the regulations. As the Wex-Tuck site directly impacts residential property, we have the right to oppose development. We have already felt the impact of traffic congestion due to the opening of the Bonefish Grill. The intersection at Louis and Main is a highly congested and dangerous area, and adding Firestone will only add to potential dangers and make it even harder for us to leave our driveways. If an error had been made in business, it should be a priority to get it corrected. The same thing should apply to your committee. The town's 2020 Plan of Development is to protect the residential neighborhoods. It is your responsibility to put the residents of your community first, and make us your priority. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak before the Commission?

Domenic Pane, 638 Church Street: I'm here to address a couple of concerns. One, on the automotive regulations, it just doesn't seem fair that you are going to wait until January to address this. We've been waiting a long time for this to be corrected. I wish you would address these regulations a lot sooner. The next thing I would like to address is John's problem over there, just off Maple Hill Avenue where that small development went in. He's got a lot of concerns over there. I think this Commission owes it to him to

maybe make a site visit over there, to at least address the drainage problem. The drainage is not draining because of what the contractor did on the site there. He's blocked the water from going into the catch basin. It's a simple fix, it's not a difficult fix. I know there are a lot of other issues over there, but I think if this Commission went over there, maybe looked at the problem, it could easily be fixed so that at least he's not going to get flooding when the rains come. And maybe you should put him on the agenda so that the other problems could be at least addressed. I think you owe it to him since it has been so long. It's not fair to residents to have to keep coming meeting after meeting and to have something go on for two years, it's just not fair. Thank you very much for your time.

Chairman Hall: Thank you Domenic. Last call, anyone else wishing to speak before the Commission.

Robert Amenta, owner of 3450 Berlin Turnpike and Modern Tire: I agree with what Dom said. I find it difficult to believe you would wait until January to address the auto use regulations. This has been going on for quite some time. In 2007 the regulations were pulled, and as a result we all became non-conforming, and the regulations that were re-written, or should I say crafted, in August of 2012 seem to be specifically for a specific site. They didn't address any of the non-conformance that had occurred as a result of the regulations being pulled in 2007. I understand that the Commission or some of the attorneys might feel that our efforts to get us set as conforming properties is a ploy because of a business competitor. Well, that's the furthest thing from the truth, because prior to the regulations in 2007 we owned and operated Modern Tire, since 1981. We were there, Town Fair wasn't there. Town Fair came. We didn't oppose that. We were there, Wal-Mart wasn't there. Wal-Mart came in with a tire and express lube. We didn't oppose that. We were there, Midas wasn't there, they came and they went. We didn't oppose any of those. Why? Because we were conforming at that point in time. We did nothing. It was the Commission in 2007 that pulled the regulations and made us non-conforming. Then they came up with these crafted regulations that specifically came up with different definitions for auto use. Auto related uses, and then the other definition, that they set aside. Another thing that they came up with was limited repair. We're a general repair, and there are dealers out there that have been in this town for years, and they are all non-conforming. I find it utterly ridiculous that you wouldn't address that and when you had the opportunity in August 2012 to put these regulations back in, that you wouldn't say, you know what, let's put them back in and let's make everybody that was non-conforming, conforming. It seems to me that if we want to talk about competition, that these were specifically crafted in such a manner that we were going to have one site approved, and we were all going to become non-conforming, stay non-conforming. So I request that the Commission look at the regulations and put it back to 2007. Let's have a level playing field, and everybody is fine, we are conforming. Right now it affects our business because it impacts our ability to get financing. Are you a conforming business? No, we're not conforming. Well, that's a problem in the bank's eyes. If we want to do any type of expansion, any type of changes to our building, that's a problem. In Dom's situation, he's renting out property and it's vacant or fallow for over twelve months, guess what, no more auto use there. Those are all business problems. We as tax payers have been paying hundreds of thousands of dollars through the years that we have operated in this town, and all we ask is that we have a fair, level playing field and we become conforming auto uses. Address the regulations. If it opens the floodgates, and everyone comes in, God bless them because we had Wal-Mart come in, we had Town Fair come in, we let Midas come in. That's all we ask. Thank you.

Chairman Hall: Thank you Bob. Anyone else?

Gary Bolles, 28 Burdon Lane: I want to fully support John Bachand. None of you, if you lived next door to that, would want that sight of view. This developer has blocked with bales of hay and silt fencing around that, totally blocking the water flow. That should be illegal. I think that if all of you were to take, like the other gentleman said, Domenic Pane, a walk over there, a ride over there just to look at it. Please, just look at it. You'll understand it and you will hopefully take some action, because this is wrong. This is why some of the people in this town are getting fed up with our elected officials and some of our town staff, really. This needs to be addressed, let's get it done and over with. Thank you.

Chairman Hall: Thank you Gary. Anyone else?

V. REMARKS BY COMMISSIONERS

Commissioner Anest: I just want to address, bring back the past on the 8-24 referral. We all understand your concerns as to why it wasn't brought before us. However I think the outcome of yesterday's referendum is a little bit more important that the 8-24 come before us prior to that, because it did send a loud message that the community is in favor of open space. I think if the 8-24 came before us that wouldn't have happened, so for the record I personally am happy that the referendum took place rather than us approving or denying the 8-24 without the town speaking as to where they want to see the town going in the future. Thank you.

Commissioner Aieta: A couple of things. We asked that Attorney Bradley, who was the representative of us on this auto-related item, be at this meeting. He is not here tonight, I don't see him. When is he coming? We're getting information second-hand from the two parties that are involved in the lawsuit, we're getting information from their attorneys, but I haven't seen Bradley in six months, and he is the attorney of record, not Peter Boorman. He should be in here explaining to us what our role is and what we should be doing as a Commission, giving us legal advice as to should we be looking at the regulations, not looking at them, what we should be doing in light of the judgments that came down from the judge. When is he going to come in?

Craig Minor: Next month's meeting, he's available.

Commissioner Aieta: I thought he was going to be available to come to this meeting. Was he asked?

Craig Minor: [to the Chair] Do you want him to come to the September 22nd meeting?

Commissioner Aieta: We asked this at the meeting last week. It was brought up by the Vice-Chairman who asked that Attorney Bradley be at this meeting.

Chairman Hall: He is going to be here at the next meeting.

Commissioner Aieta: Okay. I've got other items that I want to go over. On the 8-24 on the impound lot down the street: we asked you Mr. Planner to send a letter to the Town Council asking them to refer; that they should have referred it to us as an 8-24. You went and got a legal opinion. Did you ask for it in writing and did you get it back in writing? You sent us something saying we don't have the right to look at town property. That this was a lease.

Craig Minor: Right.

Commissioner Aieta: We didn't ask you for a legal opinion, we asked you to send a letter.

Craig Minor: I know. I started writing the letter and then realized, wait a minute, this doesn't require an 8-24. It doesn't. But I knew that you wouldn't want to hear that from me, so I asked the Town Attorney.

Commissioner Aieta: But we don't know what you asked the Town Attorney because you did it verbally.

Craig Minor: I haven't answered your question yet. I'm trying to remember whether I did it verbally or by sending an e-mail. I think it was in writing. I sent him an e-mail that described the situation in a sentence or two, and asked him, I forget how I phrased it, if he would like to comment on it or give us his position on whether an 8-24 was required. His answer was no, it was not required.

Commissioner Aieta: Did he send that, did he respond in writing?

Craig Minor: I don't remember, I'll go back and look.

Commissioner Aieta: Well, I'm going to ask this Commission to take a vote that any correspondence from us to the attorney is in writing so we know what questions are asked, and that we get the answer back in writing. There is a lot of stuff that happens between when I say something to him and he says something to Carol and it gets, you know, things get mixed up. We need it in writing so we know what question was asked and we know what the answer is.

Craig Minor: You can always do that. But it would have to be in the form of a motion.

Commissioner Aieta: Where I'm going with this, is, we didn't ask you for a legal opinion, we asked you to send a letter.

Craig Minor: Yes, and I didn't, because it would have made the Commission look foolish telling the Town Manager to submit an 8-24 referral when it is not required. So, rather than have the Commission look foolish, I thought it would be better to make sure that we had our facts straight.

Commissioner Aieta: How could you make that determination; because you asked Peter Boorman?

Craig Minor: Because I've been doing this for twenty plus years, that's how I made that determination. But I knew that you wouldn't accept that, which is why I asked the Town Attorney to give us an answer as to whether the parking lot project required an 8-24 referral.

Commissioner Aieta: If it doesn't require an 8-24 referral, there's still a change in use, and CL&P, if they are the owners of that property, they should come in with a site plan so that we have an opportunity to find out what is going on with that piece of property. It should be also referred to the Wetlands Commission, because it abuts a wetlands.

Craig Minor: Perhaps. There is a discussion going on as to whether they already had wetlands approval. That's a good point, though; was it a Town project and of course the Town is exempt from zoning, or would it have been a CL&P project? I don't know; I mean, sincerely, that's an interesting question. I don't know what the correct answer would be. But as far as wetlands approval, that is a question that is being discussed in wetlands circles.

Commissioner Aieta: We should continue the discussion as to whether CL&P should come in with a site plan so that we have an opportunity to review what happened on this piece of property. If it's just a lease, the way I read 8-24 it also covers leases. There were only a couple of exceptions where you don't have to get an 8-24, and because it was a lease is not one of the requirements the way that I read that regulation. That's enough on that one. The last thing I want to bring up is on correspondence, letters, and e-mails. When you get correspondence you can't hold them until the night of the meeting. If you get correspondence we want the correspondence when you get them, so that when we come to the meeting and someone says I sent you a letter, we've already seen it. We're not sitting here reading letters to try to get up to speed as to what someone is talking about. If you get a letter or correspondence, I want to see it. If no one else wants to see it, that's their prerogative, but I want to see letters, e-mails and correspondence that is addressed to this Commission because I want to be informed if we have to make informed decisions.

Chairman Hall: The last time we gave you a letter many of you didn't read it, apparently, because I had some questions during the meeting, and you had it in your packet. Tonight we have another letter that we are going to pass out so that you have that as follow-up, as a matter of fact, Craig has it. It was actually delivered to the office on Friday, or Monday?

Craig Minor: Thursday or Friday.

Chairman Hall: Thursday or Friday, okay, so you are going to be getting it this evening. We're all going to get it. Anyone else?

VI. MINUTES

a. August 27, 2014 Regular Meeting

Commissioner Sobieski moved to accept the minutes of the August 27, 2014 regular meeting. The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with six voting YEA.

VII. NEW BUSINESS

None

VIII. OLD BUSINESSa. **Petition 30-14: Special Exception (Section 3.15.4 Drive through Restaurant) at 3120 Berlin Turnpike ("Panera") Norr Architects, applicant, Newington VF, LLC, owner, Brian Slonski, 325 N. LaSalle Street Suite 500, Chicago IL, contact. Continued from June 25, 2014.**

Chairman Hall: We have a description from the Planner. Is the applicant here?

Craig Minor: The applicant is here, yes. I prepared a memo for you with my concerns with the final version of the site plan with the drive-through lane. I have a number of concerns as you can see. The hearing is closed, so at this point the applicant can't revise it. There is a copy of the plan in your packet. It doesn't look like a safe design to me, for the reasons that I have stated. There are some other discrepancies, technical ones, but these are the main ones.

I was talking with the applicant's engineer tonight before the meeting and he feels that there is a possibility that he could submit a revised plan that contains the things that the Commission asked for at the last meeting which I dismissed because I felt they were too vague. But if he can submit a revised plan that contains the information that you asked for last month in a manner that is clear and not in question as to whether it is vague, then I would like to discuss it with the Chairman before the next meeting. I want to give them every opportunity to get this approved. I don't want to recommend you deny it, even though in its present form I don't recommend approving it, if it is possible that they could make it doable by reversing the direction of arrows, or some of the other things that were discussed. I don't want to cut off that possibility, so what I recommend is, since you have sixty-five days from the last meeting to make a decision, to table it for tonight; I mean, discuss it some more, but don't act on it tonight, and give me the opportunity to talk with the engineer to see if there is some way that he can produce a plan that doesn't violate the closing of the public hearing.

Chairman Hall: All right Commissioners, there are several items that we brought up last time, and several of those are listed under staff comments as well. I would like to talk about that some more tonight, because I think that at the end of the meeting last time, we still had some unanswered questions among ourselves. I heard some questions that were very legitimate that probably were not answered by the petitioner, so what is your concern at this point? Looking at what the Planner has written and keeping in mind what we discussed the last time.

Commissioner Anest: I am still very concerned about the drive-through lane going the opposite way, northbound when traffic is going south, and I don't think any revised plan can address that issue, unless they re-did the traffic flow going the other way around the building which they couldn't do. I'm concerned about that, and what you brought up about the bailout lane concerns me as well, if somebody is trapped there. Those are my two biggest concerns and bottom line, my concern is just safety, safety for other vehicles, safety for pedestrians, and I don't know if that can be addressed with the items that we brought up.

Commissioner Sobieski: I'm still concerned with the traffic flow, because you are going to have traffic coming down the opposite way and you still have to cross over here, and as was pointed out, what do you do with the other car if the car is trying to get in here, hanging out? It's going to cause an issue that is going to cause an accident and someone is going to get hurt. I'm still concerned about pedestrian safety; we've all been in parking lots where people fly through and signs don't mean that much, so I still have concerns with that. And also the way the handicapped is here, you know, trying to back out when you have crossing traffic. I just have too many reservations at this point in time.

Commissioner Serra: What I was going to say Carol and Stan pretty much summed up. My concerns are the safety issues: the fact that there is no bail out lane, the crossing traffic, it just looks like a big safety issue to me with the pedestrians, with the handicapped trying to back out, and even with the lanes that aren't handicapped, backing out into oncoming traffic. They actually have traffic going in both directions. I believe they were going to change the arrow on one lane if I remember correctly, but I just don't see how this is going to be made to work. I really don't.

Chairman Hall: Anyone else?

Commissioner Sobieski: I have one more question. If I remember correctly, I think the loading dock where they get their supplies is where the queue lanes are going to be for traffic. How are they going to handle it if a delivery comes and you have traffic piled up in there? Maybe it's a minor issue, but I'm just concerned with that. I didn't see anything addressing or removing that delivery concept.

Chairman Hall: I would have liked to have had a more definitive answer from the owner of the property. It didn't seem as if we got a direct answer. If they could get it so that the traffic came in from above and down, instead of crossing, I think this project would be a lot more acceptable to us. But the way it is now with crossing traffic, crossing walkways, and the handicapped there plus traffic coming in, people walking across, it just seems as if there are too many opportunities for cars and people to meet. If the cars were out of the way and up above, and then coming in it would separate the pedestrians and the cars a lot more. My concern is, what kind of an answer did we really get from the owner of the property? Because if you go up there, it doesn't seem as if that part of the parking lot is used. So, why wouldn't they want this to come from a more safe direction? That's my concern. I don't feel as if we got a hundred percent answer on that factor.

Commissioner Aieta: I think they did give us an answer; they went to the owner, the owner said no. That's what I got out of the next meeting when we asked them, okay, did that solution work? And they said no, because the owner won't allow us to use those parking places, it's outside of the boundaries of our lease agreement. I don't know why he's afraid to lose those parking spaces. I've never ever in all the years that I have lived here seen anyone park there. That lot is so huge, it's so over the amount of parking spaces for the use that is there, that to take ten parking places away, twelve parking places, wouldn't hurt that lot at all. But apparently the owner doesn't want to give that up.

Commissioner Serra: If I remember, he gave up three spaces or four spaces, to move the dumpsters there.

Commissioner Aieta: That's in the plan now, right?

Commissioner Serra: But that's all he would give.

Commissioner Aieta: If we went back to the old plan, the dumpsters would be relocated back to the building.

Chairman Hall: Any one else? Now Craig, at this point, there's no time line that would keep us from moving this to another meeting if you are able to get some more information for us?

Craig Minor: Correct.

Chairman Hall: So what is the pleasure? We can either deal with it tonight, or try to get a little bit more information to see if we can make this work.

Commissioner Anest: They would only be able to address what we talked about.

Craig Minor: They would only be able to show the arrows, or the stop bars, or other things that were discussed at the final public hearing.

Commissioner Anest: And that's it, they wouldn't be able to do any other alterations.

Craig Minor: Correct.

Commissioner Aieta: That doesn't address the overwhelming sentiment of the people who talked here tonight. Painting stuff on the road is not a concern; it's basically the way that it is set up.

Chairman Hall: So as I said, we either deal with it tonight, or give it one more meeting to see if we can make it a little more acceptable.

Commissioner Camillo: Give it one more.

Chairman Hall: What's your feeling about making this a little more pedestrian friendly?

Craig Minor: I'm not optimistic. But there's no rush; there's no reason not to give the applicant the chance to submit the revised plan showing the information that was asked at the last meeting and see if that affects anyone's position on it.

Chairman Hall: We have one sentiment that we give it one more meeting.

Commissioner Aieta: It's not going to change anything.

Craig Minor: Can I say one thing? It also gives the applicant the opportunity to withdraw it if they want to.

Chairman Hall: Without prejudice.

Craig Minor: Right. Sometimes applicants prefer to be able to come back without the baggage of it having been denied three months ago.

Chairman Hall: As long as there is no time constraint. So our direction to you is to give it one more meeting to see if you can fine tune it a little bit and see what their reaction is and what they want to do for the next meeting themselves because there may be a change on their side.

- b. **Petition 25-14: Zone Change (Industrial to PD0 at 16 Fenn Road, Fenn Road Associates LLC, owner applicant, Richard P. Hayes Jr. 1471 Pleasant Valley Road, Manchester, CT contact, Continued from June 25, 2014.**

Commissioner Camillo moved to approve Petition 25-14: Zone Change (Industrial to Planned Development) at 16 Fenn Road, Fenn Road Associates LLC, owner/applicant; Richard P. Hayes Jr. 1471 Pleasant Valley Road, Manchester CT, contact. Effective upon publication.

FINDINGS:

1. The proposed zone change will make the parcel's zoning consistent with the adjacent parcels.

2. No objection was filed at or before the public hearing in accordance with Section 8-3(b) of the Connecticut General Statutes.

3. The proposed zone change is consistent with the Plan of Conservation and Development, as it will promote the strategy listed on page 24:

"5. Enhance and improve the appearance and quality of development at major commercial gateways: Cedar/Fenn, Berlin Turnpike/Rowley and Berlin Turnpike/Russell Road."

The motion was seconded by Commissioner Anest.

Commissioner Aieta: Item 2: this was referred to the City of New Britain. Did we get a written response or some response from them?

Craig Minor: No, but that is not uncommon.

Commissioner Aieta: So does that mean that they don't object? What does that mean?

Craig Minor: It means they didn't care, frankly. If they had cared they would have responded. It means that it doesn't really affect them.

Commissioner Aieta: Do we respond when other towns ask us, or do we just do the same thing.

Craig Minor: No, we don't get very many.

Commissioner Aieta: We got something from Berlin.

Craig Minor: We get text amendments and I present them to you. We haven't gotten a zone change within five hundred feet of our boundaries in a while.

Commissioner Anest: Do they give you like a time line that you have to respond by?

Craig Minor: The town where the zone change is proposed needs to notify the surrounding towns prior to the public hearing.

Chairman Hall: Any other comments? Again, this is to bring the entire parcel in line with the surrounding parcels so that the entire area will be consistent with regard to zoning.

The vote was unanimously in favor of the motion, with six voting YEA.

- c. **Petition 31-14: Site Plan Approval (Drive through Restaurant) at 3120 Berlin Turnpike ("Panera") Norr Architects, applicant, Newington VF LLC, owner, Brian Slonski, 325 N. LaSalle Street Suite 500 Chicago, IL, contact.**

Postponed.

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING

None

X. TOWN PLANNER REPORT

- a. Town Planner Report for September 10, 2014.

Craig Minor: A slim report. I have no new zoning issues to report on; I had no performance bond actions to bring to you; the Newington Junction TOD Committee has not met; and the sign regulation committee hasn't met since the last time. I prepared a draft for them, but I don't think I sent it out yet. I'll send that to the sign committee tomorrow which turns the clock back to where we were six months ago.

Commissioner Anest: And did you get anything from Windsor Locks?

Craig Minor: No, not yet, I don't have anything from Windsor Locks yet.

Commissioner Anest: When you get it can you send it out to the three of us?

Craig Minor: Yes.

Commissioner Anest: Thank you.

XI. COMMUNICATIONS

None

XII. PUBLIC PARTICIPATION (for items not listed on the Agenda, speakers limited to 2 minutes.)

Chairman Hall: Anyone from the public wishing to speak? Come forward and state your name and address for the record.

John Bachand, 56 Maple Hill Avenue: I went home and got a copy of the letter. I was a little bit surprised. I'm not sure if you saw it or not or if I didn't follow the proper protocol; the Planner mentioned that I have to mail it U.S. Postal, but I e-mailed it and thought if it got on the agenda it would avoid all of that. This is the second time I have had to go home in the middle of a meeting to correct something but, is this new to anyone? That's why I'm a little surprised, I guess that's why we were at that funk where we just stared at each other and didn't understand what we were talking about. I understand, I've been to enough of these meetings, I understand that my situation is pretty small on the scale of what you guys normally deal with, you deal with a lot of important things, and in the grand scheme of things my problem is probably very small, but it is my problem, so I can't sit here and hear inaccuracies and things said on the record that don't reflect fact. It bothers me. The Town Manager actually accused me of character assassination for pointing out when someone has made a false statement, misleading or inaccurate. I like Craig, I say that for the record. I think I could get along with him, but I can't sit here and hear that this is such a small matter. Maybe he's moving it to the back burner because he is dealing with all of these other big things, but to me, it's the front burner. My yard is flooding, my trees are leaning over because they are becoming uprooted, so again, I just had to correct the record. I went home and got this. I'm surprised that no one has seen it, I thought it would be on the agenda. I sent it, it's dated I think the 2nd, I think that is the date that I sent it. Maybe that was too soon, but I was under the impression that you were going to see a copy of it. Is there some way to correct the record statements after that, or what would be the...

Craig Minor: Well, no, because there is a difference of opinion. Your opinion is one thing, mine is something different. A correction of the minutes is when the stenographer gets something wrong. Correcting minutes doesn't correct an error that was made; correcting minutes corrects a typographical error.

John Bachand: Okay, I used the wrong term. Can I read this one part so that it's on the record. I'll read one part but I'll leave out the part that is kind of disparaging to some people. This is to Town Planning and Zoning, Members and Staff, follow up to the TPZ meeting of 8-27-14. This letter is dated September 2, 2014. "Craig, you made an incredibly inaccurate statement that must be corrected for the record. For the past two years you have consistently concurred with me on the fact that the Certificate of Action approval for the Packard's Way subdivision was never affixed to the mylar and filed in the land records as

required by town subdivision statute. You further conceded that conditions listed in the COA, Certificate of Action related to my property drainage and future interest as you required with the approval were never noted or incorporated into the plan. You have stated these facts for the record at several different TPZ meetings over the course of the last two years. At the 8-27-14 meeting you now insist that the missing pipe is somehow in fact on the plan. That is absolutely false. I am getting tired of having to prove myself. This has dragged on for two years, every time I bring it up to TPZ, it's like it's the first time, over and over again. Look again at the plan and there is no pipe noted or incorporated in the plan. You claim that it is under the property line, you are contradicting two years of your own record. If it were there it would be noted just like every other section of pipe on the plan. Look again at the Certificate of Action for what is very (inaudible) for the Commission's requirements." As I said, the rest of it wasn't very polite. So, where do we go from there? You're saying that that is a difference of opinion. It's all in the minutes. I mean, do we have to dig up the minutes? How do I correct that?

Chairman Hall: We can't answer anything at this point?

John Bachand: Sorry?

Chairman Hall: We can't get into a dialogue with you at this point, during this time.

John Bachand: I would accept a simple acknowledgement from him that maybe he misspoke and he could go back to his position that he has maintained for two years I would accept that. That's all I am looking for. Thank you. He shook his head no.

Chairman Hall: Anyone else from the public wishing to speak?

Rose Lyons, 46 Elton Drive: I forgot to mention this at the first public participation and I know there's no dialogue, but it's easier to speak and get some answer here at TPZ. In regard to the Newington Junction study: back in May, May 1st I think it was, there was a Newington Junction study meeting held in this room that got to be quite confusing, because apparently the Chairman of that committee thought that it was going to be in one type of a forum and the public thought it was going to be in another type. We had the public sitting here, we had Town Councilors sitting here, we had TPZ members, it was kind of a mix-up of things. At the next Town Council meeting, the Councilor who was the Chairman said that the public had been informed of that meeting, and I beg to differ with that; the public was not informed of the meeting. We asked that the public be informed, and that the meetings be published on the web site. In July I asked for an update, and last night I asked for an update. The only way I ever find out what is going on with that is through this Commission. I'm just wondering, and maybe I'm barking up the wrong tree and maybe the public is not invited to this, but last night I asked once again for the status of the Newington Junction study because I believe at the last meeting here the Town Planner indicated that the Newington Junction Committee had had a meeting on July 3rd and that there was some correspondence being sent to the Town Attorney to determine what their role was in planning for that area. If the public is not invited, fine, but if we are invited and it is open to the public I think it should be on the website. I think the minutes should be on the website because I don't think Roy Zartarian wants to start a Save Newington Junction Facebook page. I think he's had enough. Thank you.

Chairman Hall: Thank you Rose. Anyone else from the public wishing to speak?

Gary Bolles, 28 Burdon Lane: John Bachand asked me to read this e-mail that Mr. Minor sent to him. It's dated Wednesday September 3, 2014, 9:35 a.m. To: J.P Bachand @cox.net Copy to John Salomone, Cathleen Hall, Chairman and the subject is re: John Bachand letter to TP and Z. Mr. Minor states, "John, per Chairman Hall, your letter will not be on the TPZ agenda. I will e-mail your letter to the TPZ members later this week as you requested. Craig Minor, AICP".

Now on one other matter which is the 8-24 referral. I sent a personal letter to everyone of you regarding that 8-24 referral, and you need to know that it was the Town Manager's office that held up that 8-24 referral. I stated in that letter, if you have that 8-24 referral as you should have, and you discussed it, I

guarantee you that we would have 2,000 more "no" votes in that referendum because people would say, well, if the TP&Z says we're going to stand by our dedicated open space and don't you dare put that building there, then more "no" votes would have come out. Basically, I am on your side. You have dedicated open space. We need to protect that and I give you all the credit in the world for doing that. We went through nine months of public hearings, I spoke at a couple myself, in 2009 I believe and then it went into 2010. They gave credit to Chairman Hall, they gave credit to Vice-Chairman Carol Anest, and many others that participated in that. That plan needs to be abided by, we're totally with you on that, and anybody that doesn't want to abide by that, well, maybe they should leave town because that is the 2020 Plan of Development. Thank you.

Chairman Hall: Thank you Gary. Anyone else wishing to speak?

XIII. REMARKS BY COMMISSIONERS

Commissioner Anest: Craig, is there anyway for you to copy the section of the map that shows John's property where the pipe should be, just so we can have something visual in front of us that we can look at, at our next meeting?

Craig Minor: Yes, but it's more than that. It's more complicated than just that chunk of the map.

Commissioner Anest: I understand that, but I'm concerned with the designation of the pipe on the map. Can we just see that?

Craig Minor: Yes, as long as you let me give you the whole story because if I only showed you that piece of the map you would not know the whole story.

Commissioner Anest: Just so we have something that when he is talking we have a visual in front of us.

Craig Minor: Yes.

Commissioner Anest: And then, let's do a field trip too.

Chairman Hall: I thought we had that map at one point. I remember sitting here and looking at it, and pointing right at...

Craig Minor: I will, but there is more to it than just the map.

Commissioner Aieta: Let's go on a field trip with the piece of paper, look at the situation. I've been out there. It's exactly the situation that Mr. Pane said; they are blocking water from flowing from his property into the catch basin. Let's all go and see if that is correct or not.

Commissioner Anest: Let's see what we can do to solve this.

Commissioner Aieta: Are we still on.....

Chairman Hall: We're still on "Remarks by Commissioners".

Commissioner Aieta: In light of the light agenda that we have coming up, and there was no new business tonight, can we have a discussion about the auto-related uses? Whether we can start at least on this portion of the regulations so that we can start moving. I know that Bradley is coming to the next meeting, but after talking to Attorney Bradley can we get it on the agenda that we don't have to wait until January to start looking at these regulations? If nobody else wants to do it, that's fine but...

Chairman Hall: That was going to be part of my remarks this evening. That once he has come, and we have talked, that we get a game plan as to how we are going to address this. We are going to have Craig

give us a list of the things that we need to deal with, because it was pretty specific, and instead of having each one of us go through and figure out what is what, start with some kind of an outline. I do not agree with having a sub-committee. I would rather have us all sit around the table and work on this together. It would be probably extra time beforehand so we meet a little earlier than the meeting, and it will go over many weeks and several months, because we are going to get it right this time. We're going to look at everything that needs to be addressed, and then decide what we are going to do with it. Reaction? Give me something, guys.

Commissioner Sobieski: I think you're right Cathy. That's the way we should do it.

Commissioner Aieta: All right, let's at least start there.

Chairman Hall: This is not going to be done over night.

Commissioner Aieta: Well, I think we could move a lot faster than we've moved so far, but we have businesses that are not conforming, and they are being penalized. So I think we should address that. The other portion of it, between Firestone and the judge and whether they should build or not, that's for another day. We have to look at these regulations, at least the auto regulations, so that when people are coming in and asking the Town Planner what these regulations mean, he doesn't say, well, disregard this section of it because they're not valid any more. I find that a real terrible way for the Town of Newington to be doing business with potential tenants or people coming in to do business in our town.

Chairman Hall: We will be working on that, but we are not going to do them in isolation. They have to be done, and they have to be coordinated so that we're not spending time on one that is in disagreement with another. We have to coordinate this.

Commissioner Aieta: I'm willing to put as much time as anybody else. If we have to come here at six o'clock, or five o'clock, you want to put two hours in, I'm willing to do that. This has got to get done. We can't keep pushing it off, pushing it off. I'll be really anxious to hear what Attorney Bradley has to say because I haven't heard from him in six months.

Commissioner Sobieski: Cathy, I totally agree with you, but I also want to hear what Attorney Bradley says before we do anything.

Chairman Hall: That's why I don't want to put the cart before the horse.

Commissioner Sobieski: I don't like to be pushed into anything.

Chairman Hall: Right, and as I said, when he comes next time, then we'll have an idea, but our game plan would be to get started on this as a group, not a sub-committee. Anyone else?

Commissioner Serra: The only thing I wanted to clarify is, I believe Carol brought up and I was going to bring it up, is about going on a field trip to Mr. Bachand's property. Do we want to set a time to do that, do we want to wait until next meeting? I would like to take a look at that. This has been going on for a while, and we've got to get this resolved.

Chairman Hall: We could go before the next meeting.

Commissioner Aieta: That's the Monday meeting?

Chairman Hall: Yes, that's the Monday meeting.

Commissioner Anest: Just make sure Mr. Bachand is available.

Chairman Hall: Well no, we would go in through Packard's Way. We're not going to go on his property, necessarily.

Commissioner Anest: Okay.

Chairman Hall: This whole issue is Packard's Way. It's not John Bachand's property on Maple Hill Avenue. It's Packard's Way that is affecting it.

Commissioner Aieta: If that's the case and we are going to take a field trip, maybe we should have it as an agenda item to discuss when we get back.

Chairman Hall: Let me just take a poll. Is there anyone here who hasn't been over there? Okay, all right.

Craig Minor: I'll put on the agenda to discuss what you see up there, and possibly act. It will be a specific item on the agenda, so if you know what you want to do you'll be able to, because it will be on the agenda.

Chairman Hall: It's about ten minutes out, ten minutes back, so that's twenty, we should leave at least twenty minutes to take a look at it if we are going to be at 7:00. You better check with Jack and find out.

Craig Minor: I'm not sure it's a good thing to have your meeting right after the field trip, because that's going to put pressure on you to reach some conclusions at your next meeting in a half hour. I would recommend that you have the field trip on some free night, so that you can take your time and not feel that you are under pressure to be knowledgeable about it a half hour later at a TPZ meeting. So pick a night that you are not doing anything, or a weekend.

Commissioner Serra: I don't think we would be under any pressure, I mean, it gives us some insight into what Mr. Bachand is saying; it gives us some insight to a map so we can see what's going on.....

Craig Minor: I've been dealing with this for two and a half years, it's not simple. You're going to be given a couple pieces of paper and you are going to feel, okay, I need to do something with this.

Commissioner Anest: No.

Chairman Hall: Not necessarily. We'll go and look at it.....

Commissioner Aieta: How about this. We will go and look at it, we'll have a discussion on it. We're not forced to vote, we're not forced to do anything. We'll discuss it, and if we want to move it into another meeting, we'll do that. We have a lot of options. Let us look at it as a Commission and make a determination. We're hearing your side and his side, but we don't have a side because we don't know what the hell is going on.

Chairman Hall: And we also have to get it done in September, because we change the clocks in October, and then all of a sudden we're not going to be able to see anything. Unless if you keep your Wednesdays open we did it next Wednesday which I think is the 17th, but that gives you an extra meeting, and we would have to post it anyway because if we are all together that would be a meeting. I think it's better to do it on the 22nd.

Commissioner Serra: I agree.

Craig Minor: Okay, so we'll do it on the night of the meeting

Commissioner Aieta: If you met at quarter after six, you'd have forty-five minutes, I mean, it doesn't take long to look at a catch basin; all we're looking at basically is a catch basin.

Craig Minor: Tell me what time you want to start.

Chairman Hall: 6:15 at the site. 6:00 o'clock?

Commissioner Anest: Yes.

Commissioner Andrzejewski: Cathy, just so I understand correctly. There's an explanation that goes along with this field trip that we are going on, and in order for us to come to any sort of conclusion, is there any way for us to get that explanation in writing and then go out to see the actual site, so that we're all clear and we're all on the same page?

Chairman Hall: That could be in the agenda packet which we will get. Now you are going to have to send that out early because some people don't get it until Monday because of the mail.

Craig Minor: It would go separately.

Chairman Hall: But I'm saying, it has to go out sooner than Friday because if we are meeting Monday some people don't get it until Monday.

Commissioner Anest: You said you were going to attach a memo anyway.

Craig Minor: Yes. Just so I'm sure, six o'clock or 6:15?

Chairman Hall: I said 6:15; did someone say 6:00? Again, ten out, ten back should be okay and then twenty minutes to take a look at it. That gives us forty-five. Be on time! 6:15 at Packards Way. Now, because it's not a town road yet, it's private property, do we have to inform the owner of the property that we are going to be on their property?

Craig Minor: Yes, as a courtesy.

Chairman Hall: Just so they know. We will see you on the 22nd, 6:15, Maple Hill Avenue, rain or shine by the way, because if it rains, it's going to be even more interesting.

XIV. ADJOURN

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Serra. The meeting was adjourned at 8:10 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary