



# TOWN PLAN AND ZONING COMMISSION

## SPECIAL MEETING

Monday, November 23, 2015

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

6:00 p.m.

## A G E N D A

- I. ROLL CALL AND SEATING OF ALTERNATES
- II. REVIEW OF ZONING REGULATIONS
  - a. Discuss Reinstating Previous Auto-Related Use Regulations
  - b. Section 7.5: Forms
  - c. Section 7.6: Amendments
  - d. Section 8: Board of Appeals
  - e. Section 9: Appendix
- III. ADJOURN

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BY *Tanya D. L...*  
TOWN CLERK

Submitted,

A handwritten signature in black ink, appearing to read "Craig Minor".

Craig Minor, AICP  
Town Planner



John Salomone  
Town Manager

# TOWN OF NEWINGTON

131 Cedar Street Newington, Connecticut 06111

## Town Plan and Zoning Commission

Craig Minor, AICP  
Town Planner

**Date:** November 18, 2015  
**To:** Town Plan and Zoning Commission  
**From:** Craig Minor, AICP *CM*  
**Subject:** Petition #02-15:  
Zoning Amendments Town-wide  
Town Plan and Zoning Commission, applicant

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### 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:

I asked our GIS specialist Thad Dymkowski to prepare a series of maps showing where all of the existing auto-related businesses are in town, grouped by activity type. As of this moment he has not completed them, but I should have them for you at the meeting.

Attached is the table I created for the last meeting, revised to show what uses were in fact allowed in each zone prior to 2008.

#### 2. Section 7.5: Forms:

a. Just some house-keeping changes: deleted the requirement that applications be submitted in triplicate (this was not helpful to us, since it is easier for us to make additional copies ourselves); changed the number of site plans from 5 to 10; and changed "Planning and Zoning Commission" to "Town Plan and Zoning Commission".

#### 3. Section 7.6: Amendments:

a. I deleted the rule that applicants for special permits cannot reapply until after one year. I don't think it is legal to deny someone the opportunity to reapply. State law specifically gives TPZ the right to do this for zone changes and zoning amendments, but not special permits.

4. Section 8: Board of Appeals:

a. DMV Location Approval: Now that the TPZ appears to be poised to resume allowing motor vehicle dealers and repairers in Newington, it is important to revise the DMV location approval process. The Connecticut General Statutes designates the ZBA as the local zoning authority to sign off on DMV dealers and repairers license applications. This does not mean that the ZBA gets to decide where a motor vehicle dealer can go; it just certifies that the business is allowed at that address, and that the TPZ has approved a special permit (if required). The TPZ still has sole authority to designate where dealers and repairers are allowed, and to approve special permits for them.

**(NEW) 8.1.4 Certify location approval of a motor vehicle dealer or repairer, in accordance with Section 14-54(a) of the Connecticut General Statutes.**

5. Section 9: Appendix:

- a. Section 9.1 (Rules): No changes.
- b. Section 9.2: (Definitions):

**ACCESSORY APARTMENT:** A separate living unit within the principal single-family dwelling but subordinate to the principal dwelling in terms of size and appearance. The accessory apartment shall have at least one internal doorway connection into the principal dwelling. The accessory apartment shall have common utilities with the principal dwelling and shall not have separate metering devices. ~~The provision of a second kitchen in a single family dwelling unit without a separate living unit is not an accessory apartment and is permitted subject to the required building permits.~~

This is incorrect. Per the past practice of the TPZ, a second oven is in fact what makes a collection of rooms into an accessory apartment.

**CEDAR MOUNTAIN RIDGELINE SETBACK AREA:** the area bounded by (A) a line that parallels the ridgeline (**as defined above**) at a distance of one hundred fifty feet on the more wooded area of the ridge, and (B) the contour line where a ridge of less than fifty percent is maintained for fifty feet or more on the rockier side of the slope. Manmade slopes of 50% or greater shall not be considered as a part of any traprock ridgeline. The burden of proof that such a slope area is manmade shall be on an applicant who owns or desires to use the property containing such slopes. (Effective 5-20-05)

Just clarification.

HOME OCCUPATION: Any use customarily conducted entirely within a dwelling unit, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and carried on by the residents of the premises and no more than one non-resident employee. ~~Such use must occupy a floor area not more than 25% of the floor area of the dwelling unit; must not create a nuisance, odor, noise, glare, vibration, or safety hazard noticeable off the premises; there shall be no outside storage of material or display of stock-in-trade; no exterior evidence of the activity carried on shall be visible from outside the building; and shall not include the sale of articles not made or assembled on the premises.~~

I've deleted the last sentence because it goes beyond defining "home occupation". Definitions should be limited to just definitions. If we include requirements it can get confusing, because the reader may wrongly assume that these are the only requirements. It's better to have none, so the reader knows that he needs to go to the relevant section of the zoning regulations for that information.

LOT FRONTAGE: That portion of a lot nearest the street as measured at the street right-of-way. Where the side lines diverge from the street toward the rear of the lot, the lot frontage may be considered the distance between the side lines measured at the front ~~yard lot~~ line. Where the side lines converge from the street toward the rear of the lot, the lot frontage shall be the average width measured at right angles to the lot depth ~~shall not be less than the required frontage~~. For rear lots, the rear lot line of the front lot is the frontage of the rear lot.

Just clarification.

**LOT LINE: Property boundary.**

We don't currently have this definition, even though the phrase appears in the zoning regulations.

LOT, THROUGH: ~~An interior~~ lot having frontage on two parallel streets.

Just clarification.

STRUCTURE: ~~A walled and roofed building that is principally above ground. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.~~ This definition also includes a gas or liquid storage tank, as well as a manufactured home.

Our current definition of "structure" includes the word "building", which is not correct. There are many structures that are not buildings, such as a free-standing sign, or a retaining wall. I got this definition from "The New Illustrated Book of Development Definitions" which I often rely on for zoning definitions.

**VARIANCE: ~~A variance is granted by the Zoning Board of Appeals upon the finding of hardship specifically related to a single property. Approval of the variance gives the property owner the right to use his property in a manner which does not confirm to the Regulations. Permission to depart from the literal requirements of the zoning regulations.~~**

A definition should never contain the word that is being defined. I got this definition from “The New Illustrated Book of Development Definitions” which I often rely on for zoning definitions.

c. Special Definitions for Adult Oriented Businesses, Establishments, Uses and Activities:

This section needs a lot of work which goes beyond the scope of this project. The terms that it defines are used in Section 3.17.5 (Adult Oriented Establishments), both of which were written back in 1996. The adult oriented business industry was very different back then, due to the Internet and the ability to rent DVD’s and video cassettes, which is reflected in these definitions nor in Section 3.17.5. These definitions are so out-of-date that the recently-opened adult-themed store on the Berlin Turnpike is not, by these definitions, an “adult oriented business”.

d. Special Section Flood Insurance Program Definitions:

No change.

cc:  
file

**AUTO-RELATED USE LOCATIONS  
PRIOR TO 2007**

<u>Type of Activity</u>	<u>Allowed by Special Permit in</u>	<u>Allowed As of Right in</u>	<u>Prohibited in</u>
New car dealership	B, B-BT, PD zone.	I zone	B-TC, CD zone
Used car dealership	B, B-BT, PD zone.	I zone	B-TC, CD zone
gas station (with or without convenience store	B, B-BT, PD zone.	I zone	B-TC, CD zone
car wash	B, B-BT, PD zone.	I zone	B-TC, CD zone
rental agency - cars stored on site	B, B-BT, PD zone.	I zone	B-TC, CD zone
rental agency - cars <u>not</u> stored on site	B, B-BT, PD zone.	I zone	B-TC, CD zone
tire sales and service	B, B-BT, PD zone.	I zone	B-TC, CD zone
brakes, oil change and tune-up	B, B-BT, PD zone.	I zone	B-TC, CD zone
body shop	B, B-BT, PD zone.	I zone	B-TC, CD zone
engine repair	B, B-BT, PD zone.	I zone	B-TC, CD zone
window tinting, detailing, radio/speaker installation	B, B-BT, PD zone.	I zone	B-TC, CD zone

**AUTO-RELATED USE LOCATIONS  
AS SUGGESTED BY THE TOWN PLANNER**

<u>Type of Activity</u>	<u>Allowed by Special Permit in</u>	<u>Allowed As of Right in</u>	<u>Prohibited in</u>	<u>Comments</u>
New car dealership	PD zone <u>if not on Berlin Turnpike</u>	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
Used car dealership	PD zone <u>if not on Berlin Turnpike</u>	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
gas station (with or without convenience store)	PD zone <u>if not on Berlin Turnpike</u>	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
car wash	PD zone <u>if not on Berlin Turnpike</u>	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
rental agency - cars stored on site	PD zone <u>if not on Berlin Turnpike</u>	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
rental agency - cars <u>not</u> stored on site		I zone; PD and B-BT zone.	B and B-TC zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
tire sales and service	B-BT zone; PD zone	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
brakes, oil change and tune-up	PD zone; B-BT zone	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
body shop	PD zone <u>if not on Berlin Turnpike</u>	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
engine repair	PD zone <u>if not on Berlin Turnpike</u>	I zone	All B-type zones; C zone	"Allowed AOR" still requires site plan approval of new construction.
window tinting, detailing, radio/speaker installation		All B-type zones; PD; I zone.	C zone	"Allowed AOR" still requires site plan approval of new construction.