

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Special Meeting

November 23, 2015

Chairman Cathleen Hall called the special meeting of the Newington Town Plan and Zoning Commission to order at 6:00 p.m. in Conference Room L101 in the Newington Town Hall, 131 Cedar Street, Newington, CT.

**I. ROLL CALL AND SEATING OF ALTERNATES**

Commissioners Present

Commissioner Frank Aieta  
Commissioner Michael Camillo  
Chairman Cathleen Hall  
Commissioner Stanley Sobieski  
Commissioner Anthony Claffey-A

Commissioners Absent

Commissioner Brian Andrzejewski  
Commissioner Robert Serra Sr.

Staff Present

Craig Minor, Town Planner

**II. REVIEW OF ZONING REGULATIONS**

**A. Discuss Reinstating Previous Auto-Related Use Regulations**

Craig Minor: What I'm displaying on the monitor is not in your package because I did it on Friday after the agenda went out. I did an inventory partly based on the map that Planimetrics did for you just before I got here, but also based on my own research looking at aerial photographs. These are all of the existing auto related businesses in Newington. As you can see, we have about a half dozen gas stations, ten or twelve auto repair businesses, two new and used car dealers, three "other" items that didn't fit into any other categories, three car washes, two construction equipment companies, and four brake, tire, auto, muffler shops.

I asked the GIS department to prepare seven maps. The first map will show where all the gas stations are in town, and whether they are within a certain distance of residential zones, so the Commissioners can get a visual sense of where they are. I will do another one to show you where all the auto repair places are in town, and then another one to show you where all of the brake/muffler/oil change shops are in town. Then the Commission can continue with their discussion about reinstating them in the zones where they used to be allowed, a description of which is in the package that you got in the mail. At Commissioner Aieta's request I went back to check the regs, and so this table [displayed on monitor] shows what used to be allowed in which zones, whether by special permit or by right, or outright prohibited. Then the Commission can discuss it and decide what they want to reinstate and what maybe they don't want to reinstate.

Commissioner Sobieski: Mr. Planner, can you go back to the first....I didn't see the Hess Station on the Berlin Turnpike. I saw the CITGO listed, Hess is right on the corner of the Berlin Turnpike and Brockett.

Commissioner Camillo: Superior.

Commissioner Sobieski: Right across from Kitts Lane.

Chairman Hall: It goes down by Boston Market. Maybe it is Superior, but it is one way.

Craig Minor: And it's on.....

Chairman Hall: It's right on the Berlin Turnpike.

Commissioner Sobieski: That was the old Merit Station at one time.

Commissioner Aieta: I think that is an extension of Superior Avenue.

Craig Minor: So the one that is not on my list...

Commissioner Sobieski: It's Route 15 southbound, at Superior Avenue.

Craig Minor: The corner of Kitts and Berlin.

Commissioner Aieta: It's the southwest corner, the corner of the Berlin Turnpike and Superior Avenue extension.

Craig Minor: The other one on Willard, the one that is near the car wash.....

Chairman Hall: Near West Hill,

Craig Minor: Oh, so there is a gas station and a car wash.

Commission: Yes.

Commissioner Aieta: You don't have Kelsey Street, the Valero on Kelsey Street, and that's a convenience, gas station and convenience store.

Craig Minor: Oh right, that's where I get my gas, faithfully.

Commissioner Sobieski: Mr. Planner, what about the Mobil Station that just went out. Another gas station will be going back in. Should we not leave that in there?

Craig Minor: We probably should because I'm sure the owner, on the corner of Richard and Berlin Turnpike.

Commissioner Claffey: They took the tanks out.

Commissioner Camillo: Yeah, Mobil does.

Commissioner Aieta: Under "New and Used Dealers", Newington Auto Auction, they're gone, they're not there any more. American Motors, they are gone.

Craig Minor: Do you think the owners of those properties want to preserve their nonconforming use?

Commissioner Aieta: Newington Auto Auction, there's a welding company in there now, American Motors is not there, someone else is there, it's not American Motors.

Craig Minor: But it's still a car dealership?

Commissioner Aieta: Yes.

Chairman Hall: D & D Auto is there, but C & C isn't.

Commissioner Aieta: R & M is gone.

Craig Minor: Now were they replaced by another auto repair, or have they abandoned their non-conforming use. So if the landlord comes in with a permit application tomorrow for an M & R auto repair, and we say no, you abandoned your right, he's not going to disagree with me.

Commissioner Camillo: R & M is gone.

Craig Minor: But even if R & M is gone, unless the landlord leases the space to a conforming use, they always have the right, years later, to bring in a new auto repair business as long as they don't convert it to some permitted use. So that will probably continue to be an auto use.

Commissioner Sobieski: Mr. Planner, under construction use, Alcorn used to be up on the Berlin Turnpike.

Craig Minor: Under which category?

Commissioner Sobieski: Second from the bottom, up. Alcorn used to be up there.

Commissioner Aieta: It's gone, they aren't there any more.

Commissioner Sobieski: Right, but that lot should still be zoned for that, correct?

Craig Minor: Is that just north.....

Commissioner Sobieski: Of Best Buy

Commissioner Aieta: It was where the jewelry store had the truck out in front.

Craig Minor: Becker's Jewelry? Becker's Jewelry is 3311.

Commissioner Aieta: That was an auto related use.

Craig Minor: So they still have the right to continue with some auto related use there.

Commissioner Sobieski: R.W. Thompson, that's in the back there, right? We only have two companies, we used to have three. Isn't there one up on Pane Road too?

Commissioner Claffey: The one right before your light.

Commissioner Aieta: That's PB.

Craig Minor: R.W. Thompson... behind Beckers?

Commissioner Camillo: They're gone.

Craig Minor: It doesn't matter if they are gone, it's the use. Unless the owner converted it to a permitted use, they might as well still be there because the owner will always be able to bring in another auto related use.

Chairman Hall: No, that's construction equipment.

Craig Minor: Construction equipment sometimes can be an auto-related, by your definition. H.O. Penn for example is a non-conforming use because technically they fall under your auto related use regulation, and cannot expand.

Commissioner Camillo: Do you know what is going into the Northeast Utilities building?

Craig Minor: I don't know, but people in Town Hall may.

Commissioner Sobieski: In the old H.O. Penn building up on Day Street, isn't there another auto use in there?

Chairman Hall: Corvette Center?

Commissioner Sobieski: No, the Corvette Center is here.

Commissioner Camillo: Mirabelli is in there.

Craig Minor: I have Mirabelli, but under a different name. Well, I'll double check to see why he dropped off.

Commissioner Aieta: See where it says American Motors? They are no longer there, but there are five licenses in that building.

Craig Minor: Yeah, that whole building, 105 to 115, there are a couple of auto related uses in there.

Commissioner Sobieski: I have a question, you have a Shell station listed at 295 Main Street, and you have a car wash listed at 295 Main Street. It's in the same building.

Craig Minor: Yes, but it's two different things. It's a car wash and a gas station so I wanted to make sure you recognized that there was a car wash and a gas station there. There are some places where there is just a car wash, and some places where there is just a gas station.

Commissioner Claffey: That's just one parcel with two businesses?

Craig Minor: Yes. There are a couple of businesses where you see, like West Hill Auto, where I had two addresses, that's because actually part of West Hill Auto, the part at 120 Willard is in the R-7 Zone, and part of it in the I Zone, so that is why I'm listing it with two different addresses.

Chairman Hall: Now Pep Boys is in Berlin, right?

Commission: Yes.

Commissioner Claffey: Auto Zone, the one that is near IHOP?

Commissioner Aieta: Those are retail, not auto related uses.

Craig Minor: I agree.

If they do brakes, oil, mufflers, those things, I am including them. If all they do is sell parts, then no, I'm not including them.

Commissioner Aieta: There is Town Fair and you keep going and you run into the muffler place.....

Commissioner Claffey: Then it's Auto Zone,

Chairman Hall: How about the old Jiffy Lube on Kelsey? I know it's closed, but again, if you are saying that it's the use.....

Craig Minor: If they have never abandoned it by renting to someone who is conforming.....

Chairman Hall: It's vacant.

Commissioner Claffey: And who's next to him is that M & B, didn't they used to own that building? Then they moved onto Christian Lane.

Commissioner Aieta: Jiffy Lube, that's right, that's an auto thing.

Commissioner Claffey: The building next to Jiffy Lube. It's still going for that use right, even though it's vacant?

Craig Minor: It's not zoned for it, it's grandfathered, even though that tenant moved out, it's always grandfathered.

Commissioner Claffey: So another guy, ABC Automotive could come in there.

Craig Minor: Exactly. Until the landlord rents it to somebody for a book store or a clothing store and then once he's done that, he can never go back to auto.

Commissioner Claffey: Isn't there another one going back up Kelsey Street toward Church?

Chairman Hall: No, there's a house and a brook.

Commissioner Aieta: Going the other way there was R & M, and then there used to be a car wash there.

Chairman Hall: That's on the north side, he's talking about the south side.

Commissioner Aieta: There's a landscaper after that. A welding shop and then the landscaper.

Chairman Hall: Then there's (Inaudible), that's huge.

Craig Minor: What is that?

Commissioner Aieta: What do they call it now? That's an auto related use. Cobar.

I bet you they have 5,000 cars.

Craig Minor: On the Berlin town line?

Chairman Hall: Go Christian Lane and Kelsey Street, right on the corner. Not in the front, it comes off of here and then it explodes when you get in here.

Commissioner Aieta: And there is something else there.

Chairman Hall: Well, there's a couple of parcels. You can see it from Bridlepath.

Craig Minor: It's under used auto parts, 175 Kelsey.

Commissioner Camillo: That's separate.

Craig Minor: You are saying that there is also something over here.

Commissioner Claffey: There's a big embankment out in back. Does that have a New Britain address or a Newington address for that Cobar?

Craig Minor: That may be why it is not on the map that Planimetrics did.

Commissioner Claffey: I never knew that was Newington, I thought it was New Britain.

Craig Minor: Okay, well I'll send a revised list of auto related businesses to our GIS department to put together some maps which I will have at your next meeting, and then you can decide what.....

Commissioner Sobieski: Have them also use the Google Earth, which is pretty good.

Craig Minor: Well actually, that's what I was doing to verify what the Assessor's map showed and what the Planimetrics map showed.

Commissioner Sobieski: Some of these areas where they are not sure, if you use Google Earth and cross reference them.....

Craig Minor: Okay, moving on.

Chairman Hall: Anything else that anyone wants to talk about in that section?

#### **B. Section 7.5: Forms**

Craig Minor: The first thing I suggested is to take out the "fill out in triplicate" requirement, because that is just a nuisance for us. It's easier for Cindy to make copies when she does the agenda package.

Under B., Master Plans: what I did in Cromwell, which was very popular and I'm suggesting that we do it here, is instead of having the applicants give us big 24 x 36 inch plans for you folks, which is really cumbersome, is to provide half-size which is 11 ½ x 17. That's small enough to put it in the envelope and mail it to you, but big enough for you to have a pretty good sense of what's going on, and you can keep it. I'll always have full size maps if anyone really wants to see them. But this way you will be able to have your own set of site plans, without it being overwhelming.

H. is correcting the name from "Planning and Zoning Commission" to "Town Plan and Zoning Commission". This was not in the package that got mailed; we forgot to include the marked up zoning regs. I didn't make copies, so look at the monitor; if you see anything that you want to talk about, we can stop. I gave you my memo, but as I said I forgot to include the underline and strike out version of the regs.

The next change I suggest regards withdrawal. Apparently we have a policy or a rule that if someone withdraws their application for a special permit after the hearing is started, they are not allowed to reapply for a year. First of all, I'm not sure that is legal. I don't think you can prohibit someone from reapplying if they are willing to pay the application fee and go through the process. State law does give the Town the ability to prohibit a ZBA applicant from reapplying within a year, but really, if someone comes back with a better proposal, and if they pay their application fee, why should we prohibit them from coming back and making a better case?

Commissioner Claffey: What would be an example?

Craig Minor: Well, let's say Amara heard during the public hearing where their problems were and what they needed to do to make it acceptable, so they fell back to regroup and come back in with a revised application. Why not let them submit a revised application, as long as they pay the fee.

Commissioner Sobieski: Mr. Planner, how do the other surrounding towns handle this?

Craig Minor: I can find out, I don't know. I will check.

Commissioner Sobieski: Maybe what happens is they stop and give them time, if the plan is completely off the wall, and it got rejected, it stops them from coming back and resubmitting it again.

Craig Minor: I'll see if any other town does that.

Commissioner Aieta: It was in there for a reason, but we don't remember what the reason was. Isn't there another, when they come in and they are denied, they can't come in for a year.

Craig Minor: As I said, the Zoning Board of Appeals, if you are denied a variance, the board does not have to hear a resubmission for a year. But that is by state law. That's ZBA, not, zoning. I don't know if there is any state law that gives you the ability to tell someone that you can't come back for a year.

Commissioner Aieta: If someone comes in with an application that was denied, they can bring back the same application.....

Craig Minor: Apparently there is case law which says that if an applicant has been denied, they cannot come back with the same application. It has to be different. Now, what constitutes "different", that's subjective, but by law they cannot come back with the same application. So Amara, if they were denied the first time, they would have to come back with a revised driveway, or a revised parking lot layout, something different.

Commissioner Claffey: So let's say a developer comes in, pays the fee, you advertise it, and then before the next meeting, they come to your office and withdraw it, before it gets denied or approved.

Craig Minor: Let's say the adult day care folks go back to their office and say, wow, we have a tough row over there. Let's withdraw our application, do a lot of research, and come back in a couple of months with a beefed-up application. Under this regulation, they can't do that. Because once the hearing is started, if they withdraw, they cannot reapply for a period of one year.

Chairman Hall: And once we do it, isn't it "without prejudice"? We've done that.

Craig Minor: But it doesn't say you can do that. You can't do that.

Commissioner Claffey: But this is saying....

Craig Minor: Yes, the Commission may waive the time requirements in special circumstances. So, yes, but you can't waive any more...

Commissioner Aieta: So that has to come out anyway. Special circumstances must be detailed in Commission minutes, that's got to come out.

Chairman Hall: There is no such thing as special.

Commissioner Claffey: Again, Mr. Planner, this is stating they've never come before us, so using the adult day care that already started the process...

Craig Minor: It says, "after a date for the public hearing has been advertised."

Commissioner Claffey: Yes, but they physically came and had their public hearing. It doesn't say after the public hearing has been scheduled, or advertised. It just says, after the date has been advertised. That's where we are now with the adult day care. So the adult day care folks are exactly in this situation. So if they withdrew now, they would not be able to reapply for a year. And as I said, I don't know why we have that rule, really.

Commissioner Aieta: Except we've been waiving, we have denied without prejudice.

Craig Minor: Well, I would not want to contradict what I just said to you a minute ago, but I think if you denied them, in a sense...

Chairman Hall: Before any judgment.

Commissioner Claffey: So, let's use the adult day care. If they came in hypothetically tonight and said, "we're pulling it, we'll be back some other time", and then in three weeks they came back to start the process over because they heard the discussions that we were having...

Craig Minor: I think this means that they can't, because the public hearing has already started.

Commissioner Claffey: What's the benefit and/or down side if a person in this predicament pulled their application? Is there a, I don't know, I've never seen it, I've never seen anyone pull their app.

Craig Minor: There is a benefit to that. They would rather come back and reapply without the stigma of having gotten a denial.

Commissioner Aieta: I think that's the answer, that's why the rule is there because people, if they got the sense that they were going to be denied, they would pull it, and what our Commission is saying is, if you do that, you can't come back for a year.

Craig Minor: Right, but why? How does it benefit us?

Commissioner Aieta: Because we don't want them to come back with the same plan, over and over and over, apparently.

Commissioner Aieta: It's for people who have gotten the sense that they will be denied, and so they withdrew it, and if they did, they had to wait a year before they could come back.

Craig Minor: They wouldn't do that if they didn't expect to come back with something different that would pass muster. Why would they waste their time giving you the same application three months later? It's probably going to be a much better application. So why not let them make their presentation? In the past, when people did that, did they come back with the same application? That wouldn't make any sense.

Commissioner Sobieski: I'm a little confused here. Somebody puts an application in, and let's assume that the driveway is wrong, or whatever, and they get denied. They change the plans, move the driveway, and want to come back, but they have to wait a year before they can come back in, am I correct?

Craig Minor: I'm not sure.

Commissioner Sobieski: Let me ask you this, and I'll use Amara as an example. There were a lot of conditions that we put on it. Let's assume that they changed just some of them, they could come back, if they were denied, then they would come back. It would take them a year to come back? Is that correct?

Craig Minor: I think if the intent of this regulation is to prohibit them from coming back after they were denied, for a year, it would have said so, but the regs specifically say, "after the date of the public hearing has been advertised". I think it's limited to applicants that withdraw before they have gotten a denial.

Commissioner Sobieski: Here's what I was trying to elude to. I start a development, then I realize that I've run into something that I hadn't planned on, far exceeding what I want to do, I'm midway through the process. Now, if I withdraw, without...

Craig Minor: You aren't going to "withdraw", because you already have your permit under that scenario. You'd come back and ask for a modification to what was approved.

Commissioner Sobieski: I'm saying, I run into, let's say I hit a pocket of quicksand, or bedrock...

Craig Minor: Or you have a beehive of neighbors that you weren't expecting.

Commissioner Sobieski: So now I say to myself, wait a minute, I can't do what I have on the plan here, I have to significantly change the plans, so I'm going to withdraw. Now, that person is penalized for a year.

Craig Minor: Yes.

Commissioner Sobieski: That's what I'm asking, so that is one clear cut case. That's what I needed to get clear in my mind. Thank you.

Chairman Hall: And you are saying, let's get rid of that.

Craig Minor: I'm suggesting you delete it, yes.

Chairman Hall: I think that's a good idea.

Commissioner Camillo: I think we have done this in the past. They had everything in order, but they had to change a few things, like a driveway, and we approved it with conditions. Why wouldn't that happen anyhow, rather than having them withdraw?

Craig Minor: But if someone was on the verge of getting approval, albeit with a bunch of conditions, why would they want to withdraw?

Commissioner Camillo: That's what I'm asking you.

Craig Minor: They wouldn't.

Commissioner Camillo: Why, what would be considered...

Craig Minor: Let's use the adult day care. Let's say they now realize that they have a lot more homework to do than they expected, and it's going to take them a couple of months to do what they now know they need to do. In a normal situation they would withdraw, so the clock is not ticking and no one is under pressure to come to a decision quickly, and do the work that in hindsight they should have done in the first place, and then come back in the spring of 2017. Under this regulation, they can't do that. They have to stay the course with what they have brought to you.

Commissioner Aieta: I think you have a couple of things mixed together. This is only saying for public hearings, and all of the conditions are usually on site plans. Normally a public hearing is for a change in the regulations. I don't think it's where we have conditions. So basically it would be when they are looking for a special exception, or looking to make a change in our zoning regulations, and for whatever reason we have to have a public hearing.

Craig Minor: Or a re-subdivision, a text change, and a special permit. Bel-Air Manor might be another example. They came in for a special permit because it was assisted living, and let's say during the public hearing process they realized that they needed to make a lot of changes before the Commission would be willing to approve it, but they only had a couple of weeks to fix it because of the deadline, and so they decided to withdraw and come back in a few months with a better application. They aren't able to do that under this regulation. I don't know why you want to make it hard for someone to withdraw and come back with a better application. Make it possible for them to come back with a product that's better for everybody.

Chairman Hall: By taking it all out.

Commissioner Aieta: What's the downside?

Craig Minor: The downside is, you could theoretically get virtually the same application, month after month, but with a whole new application fee paid each time, and why they would do that?

Chairman Hall: How many times does that happen?

Craig Minor: I know. I mean, I don't see any realistic downside to taking it out.

Commissioner Aieta: It wouldn't bother me if they kept coming back. If it's the same thing, and collecting the fee.....

Craig Minor: Moving onto the ZBA: I'm rewording the first sentence under 8.1.3, because the way it's written describes a variance rather than saying what the process is. What it currently says is, a variance may be granted by the board only if the following, but the regs should first say that the board can grant variances under the following circumstances. I will make a note to mail these to you, or e-mail them so you have this, if you want to go back and look at them again before we do the public hearing on all of these changes.

New Section 8.1.4: Newington is a town of more than 20,000 people, so by statute the ZBA is the agency that grants "location approval" to new auto dealers and repairers. This has gone back and forth over the years between TPZ and ZBA, and at one point each town got to choose whether its ZBA or TPZ would do it, but that was changed, so currently, it's the ZBA that signs off on someone's DMV application. If a town's zoning regs require a special permit, the person still has to go to TPZ for the special permit. It is the ZBA in a town of Newington's size that is supposed to do that. In Newington it would be a two step process. They will have to come to you for a special permit first, and then to the ZBA for location approval.

Membership in the ZBA: I put the words "Newington Town" in front of the word "Council" to make it clear who it is that appoints ZBA members. I'm suggesting we delete 8.2.5. It says that if the applicant doesn't pick up his "permit", which I assume should be "variance", and they hear appeals to overturn the Zoning Enforcement Officer, but whatever the "permit" is, within six months, it is null and void. I don't think state law allows Newington to say a permit is null and void just because the applicant forgot to pick it up. It's not valid until it's filed with the Town Clerk, but that's not the same thing as becoming null and void. But again, I'm not sure what "permit" this regulation is talking about because the board doesn't grant permits. Maybe this is a holdover from a time in the past when the ZBA did grant special permits, but either way I'm suggesting that we delete it.

Then 8.2.6: I'm inserting "DMV location approval" as one of the things that the ZBA needs to hold public hearings on. That's it for the ZBA section.

This next section, called "Appendix", is a bunch of things, including definitions. But the first section of the Appendix is rules for interpreting our regulations and is pretty self-explanatory. I didn't suggest changing any of them.

Then we get to the definitions. The first definition that I suggest we change is the definition of "accessory apartment". I'm suggesting that we delete the last sentence that says, "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 permit." I'm suggesting that we take this out because I have been told by the Commission that it's the stove that makes a dwelling unit a dwelling unit. Until there is a stove, it's just a section of the house with another bedroom, bathroom, refrigerator, and exit. It's not a "dwelling unit" until there is a stove.

Commissioner Aieta: In Newington, a lot of Italian households...

Chairman Hall: Not just Italian.

Commissioner Aieta: All of Italian households have the kitchen downstairs in the basement or in their garage. In my house, I have an extra stove in the garage, that doesn't necessarily mean that that makes it an accessory apartment.....

Chairman Hall: By appraisal rules it does, to a bank. I can tell you that one hundred percent. If there is a second stove in the basement, they consider that a multi unit dwelling and if it's in an R-12 single family, there's a heck of a mess - you have to remove the stove before the appraiser comes. Happens all of the time. So, that is universal appraisal rules, a stove constitutes a second dwelling unit. One stove per dwelling unit.

Commissioner Aieta: I have a stove and refrigerator in my garage.

Chairman Hall: You're not the only one. Trust me Frank, you are not the only one. The town is full of them.

Craig Minor: What the sentence is telling Frank is that you can have a stove in the basement so long as there is nothing else to indicate that this is a second living unit, but I think it just creates more confusion. If that sentence was never there, nobody would question whether they could have a second stove in the basement. Until the bank came around, at least.

Chairman Hall: Right, and then you have to worry about it when you sell the place.

Commissioner Claffey: This is how they read it in the building code.

Chairman Hall: With it out, or with it in?

Commissioner Claffey: With it in. If you go, as I have had to do many times, I would have to go in before the CO was issued, I went in that basement and there was a stove; it was a second unit, and it wouldn't get a CO as a single family house. They didn't care if there was a dishwasher and a refrigerator...

Chairman Hall: Right, it's the stove that makes it a second dwelling unit.

Craig Minor: So what you are saying is, even though it is not a TPZ problem, we should leave this regulation in as a head's up...

Chairman Hall: It's up to the people who are dealing with them to tell them, but what happens is that the bank will come back and refer to the Town, and if you have it in there, it just mucks up the works.

Commissioner Aieta: This is saying that the provision for a second kitchen in a single family, without separate living, is not an accessory apartment. Well, it's not.

Craig Minor: Right.

Commissioner Aieta: That's what that is saying.

Commissioner Claffey: You are really dicing it, because what constitutes a separate living unit?

Commissioner Aieta: Separate utilities.

Commissioner Claffey: You could have a two hundred amp service coming into your house, and then piggy back a (inaudible) off of it, and that would fill the basement, separate living

unit, and you would still have one meter at the house. I read this as hurting us. As Chairman Hall said, if someone came and read our regulations, then no. If you kept it in here, and someone had a separate living unit, you'd have other ways or recourses to remove it, other than a kitchen in the basement.

Commissioner Aieta: But we're trying to define it so that just because you have a stove in the basement, that doesn't mean it is automatically an accessory apartment. That's what we are trying to say. I have a stove in the garage, with a refrigerator, so someone can come in and say, this is an accessory apartment, but this is saying, no it's not. There are other criteria that makes an accessory apartment. So, we're giving people a heads up, that just because you've got a stove there, it doesn't mean that it is another apartment, that's what we are saying.

Craig Minor: All right, so we can leave that.

Chairman Hall: But just be aware that it is the stove that creates that second unit when the appraiser comes.

Commissioner Aieta: So if I get it appraised, I have to take the stove out.

Chairman Hall: Yes. Believe me.

Craig Minor: Cedar Mountain ridge line: I'm suggesting we insert the words "Cedar Mountain" in front of "ridgeline setback area" because "Cedar Mountain Ridgeline Setback area" is the way that it is usually referred to. It will make a complicated regulation a little bit clearer and God help anybody who tries to actually use that regulation.

Home occupations: I'm suggesting we delete the second sentence because it's redundant. The Home Occupation section talks about how big a home occupation can be or how small it can be, and I don't like having redundant regulations, because if one gets changed but the other doesn't, it's a contradiction.

Commissioner Aieta: Is there any language somewhere else that says, a home occupation must not create a nuisance with noise, glare, vibration, safety hazard noticeable off of the premises? That there shall be no outside storage of material? A section that says that particular to a home occupation?

Craig Minor: No, there is no one place that says all that.

Commissioner Aieta: Then that should stay in here. I have a home occupation, but I don't have any of that stuff; noise, displays outside and storage of goods, or trucks parked there, signage, or any of that stuff.

Chairman Hall: It would be helpful if we could get rid of the "25%" though. Think about that.

Craig Minor: But that is already in the home occupation regulation.

Commissioner Aieta: What's that?

Craig Minor: The 25% rule, that's already in the home occupation regulation. I'm suggesting that you take these out of the definition, because it's redundant. Everything in here is somewhere else in the regulations, but not all in one place, which speaks to your point about in leaving it here.

Commissioner Aieta: I would like to. If someone asked, "what's a home occupation?" I'd rather they see this, instead of us saying, well, you didn't look under blah, blah, blah. It's good to have it in there, so they know. That's a special condition, to have a home occupation.

Craig Minor: Lot frontage: I'm just re-working it to be clearer. "Lot line" is not defined in the regs, although that phrase is used, so I'm adding it. "Through lot": I'm changing it to a lot having frontage on two parallel streets, which is a better way to describe a though lot.

Structures: the current definition of "structure" is "a walled roofed building..." but the definition of "building" is "a structure...", so I'm suggesting we change this. I got this definition from my dictionary of zoning terms: "A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land." I'm leaving the second sentence in our regs, so this definition also includes gas or liquid storage tank as well as a manufactured home.

Commissioner Aieta: When I complained about solar panels on the ground, on Pane Road, the ZEO said that this was a structure. I don't believe that it was a structure. So, by just these changes, this would make them a structure, right?

Craig Minor: Yes. But in our current zoning regulations, what category would a solar panel fall under if not "structure"?

Commissioner Aieta: I don't know.

Commissioner Claffey: Accessory building?

Craig Minor: It's not a "building", because a building is defined as "an independent structure having a roof..."

Commissioner Sobieski: It's a structure.

Craig Minor: But "structure" is currently defined as "a walled, roofed building..."

Commissioner Aieta: We have other places in the regulations where we use "structure"; we allow them in side yards, we allow them in different places, and I'm trying to stop having those in certain places. The structures that hold a panel on the ground.

Craig Minor: We can do that; we can specify where the structure known as a solar panel will be allowed, and I'm working on that regulation. Solar panels will be a structure that will be prohibited in certain areas.

Commissioner Aieta: You are defining structures a lot more than.....

Craig Minor: Right, anything man made. A free standing sign is a structure. A retaining wall is a structure. A fence is a structure, anything man made, anything that the zoning commission wants to and does regulate the location of, is a "structure".

Commissioner Aieta: I'm trying to think how this could be detrimental to us in our sign enforcement, where you could look in the regulations and put it in an area where you don't want it. It would be allowed in side yards...

Craig Minor: Right, I see your point, so we would have to make sure the regulation specifically says where signs are allowed, so someone can't come to us and say, "this

structure, which happens to be a sign, I want to put in a place where TPZ doesn't want it, but where the regulations say a structure could go." Well, we just have to make sure the sign regulations are clear as to where signs can go. But the current definition as a "walled, roofed building", that's just wrong. There are a lot of structures that are not buildings. I think we probably need to spend some more time on this.

**III. ADJOURN**

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Camillo. The meeting was adjourned at 7:05 p.m.

Respectfully submitted,



Norine Addis,  
Recording Secretary