

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

February 11, 2015

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

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

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

Commissioners Absent

None

II. APPROVAL OF AGENDA

No Changes

III. PUBLIC HEARINGS

- A. Petition #49-14: Moratorium on Low Impact Development (LID) Zoning Regulations at Single Family Residential Properties (Section 6.15.2). Town Plan and Zoning Commission, applicant. Continued from January 28, 2015.

Craig Minor: The hearing was kept open on this item from the last meeting for two specific reasons, but of course anything new can be introduced because the hearing is still open.

It was asked if we had any idea of how much it costs a homeowner to comply with the LID regulations, so I have some information for the Commission on that. The other reason the hearing was kept open was to give the Conservation Commission the opportunity to revise the memo they submitted last time, which they did, and the Commissioners have it in front of you, dated February 10th. Madam Chairman, which one do you want to start with?

Chairman Hall: Let's start with the cost to the homeowners.

Craig Minor: Okay. After the meeting last week I came up with a list of all the items that an applicant needs to prepare to comply with the LID regulations, and asked a local surveying and engineering consultant to give me an estimate of how much he would charge to provide these services. I gave him some assumptions: for example one of the expenses is preparing an A-2 survey, and then I said, let's assume that the parcel is 20,000 square feet. Next, the applicant would need a topographic survey which is different from an A-2 survey, and I assumed again that the parcel is 20,000 square feet with no steep slopes, just a normal irregular parcel. Number Three: the applicant will have to calculate how much runoff needs to be mitigated so I assumed it

is a 600 square foot parking lot or a garage addition. The fourth thing that needs to be done is the applicant needs to analyze the soil to determine its drainage capability, and I said, let's assume that the soil is moderately well drained. Number Five: he needs to then choose the appropriate LID technique, and I said, let's assume a rain garden will work in his situation. Number Six: we need to determine the right location for the rain garden, and let's assume that there is a good spot somewhere in the backyard to put the rain garden. Number Seven: he needs to prepare construction drawings of this rain garden, but let's assume that he can go to the website and download a graphic showing the construction detail for a rain garden. Number Eight: he then needs to have a surveyor or an engineer put all of this on a plot plan so that the Town staff can review it and make sure that everything is in order.

I submitted this to a local consulting firm and they replied that the cost of the A-2 survey has probably already been incurred by the homeowner, but the topographic survey would be approximately an additional \$1,000.00 on top of whatever he has already spent. All of the engineering items, three through seven combined, would cost roughly \$2,000. And then finally Number Eight, putting this all on a site plan, would be another \$400. So the cost for a typical homeowner project to comply with the LID regulations would be approximately \$3,400.00 in addition to whatever he has already spent.

Chairman Hall: And again, that assumes that everything is pretty much normal, and a lot of that can be variable.

Craig Minor: Sure.

Chairman Hall: The soil analysis, you know, "moderately well drained", well if it isn't then you have to have things that will compensate for that, so I mean, \$3,400.00 is pretty basic, very basic. By the way, the A-2 can go anywhere from \$200.00 to \$3,000.

Commissioner Aieta: Analyzing the soil to determine the drainage capacity that seems to me that you would have to go out and do actual soil testing. Test borings, maybe? That's not covered under the \$1,000.

Craig Minor: What you would do is literally dig a hole in your backyard and fill it with a garden hose, and time how long it takes for the hole to drain. It's really that simple.

Commissioner Aieta: Just like a perk test.

Craig Minor: Yes, but this is beyond the ability of some homeowners.

Chairman Hall: \$3,400.00 in addition to what they are already spending is pretty significant.

Commissioner Aieta: And I would say that this \$3,400.00 is on the low side. Conservative.

Commissioner Sobieski: What would happen if the lot is solid clay, and can't absorb the water?

Craig Minor: Well, actually that's the homeowner's best hope, because if that happens he is exempt because the regulations say that if the soil can't accommodate infiltration we don't make the homeowner go through heroic efforts to deal with his runoff. He gets a get-out-of-jail free card.

Chairman Hall: Or rock, because half of the town is rock, at least east of the Berlin Turnpike, mostly rock.

Craig Minor: Do you now want to go to the letter that the Wetlands Commission submitted?

Chairman Hall: Yes, I guess so before we go to the public.

Craig Minor: Let me read this into the record.

Chairman Hall: By whom is this submitted? It's not signed.

Craig Minor: I received it electronically, but the Chairman is here, so maybe he can clarify that.

Chairman Hall: I don't think Chris did it. His name is at the top, and I don't think John did it, right?

Craig Minor: Right. The substance of the letter came from the Commission; Chris's staff put it on letterhead and e-mailed it to me.

"Conservation Commission, February 10, 2015. Advisory Opinion of the Newington Conservation Commission. The following was raised, voted upon and passed at the January 20, 2015 meeting. Whereas this Commission asserts that control and on-site disbursement of rainwater is beneficial to the environs of the Town of Newington, an alternative to the suggested moratorium is recommended as follows:

1. The Newington Planning and Zoning Commission refrains from passing any resolution declaring a moratorium on the installation of LID storm water controls for residential lots.
2. The Town of Newington researches, investigates, and proposes for implementation such changes to the regulations and ordinances that will effectively and pragmatically apply the goals and principles of LID to the soils and developed properties of the municipality within a 12 month timeline.
3. Furthermore, that the Newington Inland Wetlands and Conservation Commission, sitting under Connecticut General Statute 7-131a (b) hereby advises and recommends that until such time as the regulations and ordinances of the municipality shall be revised and or implemented, that each applicant for a permit, be required to investigate and propose design improvements for the control and on-site absorption of rainfall onto the property. If the scope of work proposed is deemed by the municipal agency not to alter the on-site absorption of rainfall, the permit application shall not be effected. This recommendation is proposed for the reason that Newington is so highly developed; that postponing implementation of the requirements upon residential property will be in effect a barrier to achieving these beneficial and economical improvements to the municipal drainage problems.

Respectfully submitted"

Craig Minor: It's not signed.

Commissioner Aieta: Well, on the top of the thing it's from the Conservation Commission, so that is who respectfully submitted it, an advisory opinion of the Newington Conservation Commission. Will the Planner read into the record the memo from CRCOG?

Craig Minor: This is from the Capital Region Council of Governments dated January 20, 2015:

"To: Newington Planning and Zoning Commission Report of Zoning Referral Z-2014-114a: Proposed zoning regulation amendments pertaining to a moratorium on LID requirements as they apply to single family homes, garages and accessory buildings.

Receipt is acknowledged of the above mentioned referral. Notice of the proposal was transmitted to the Planning Division of the Capital Region Council of Government under the provisions of Section 8-3b of the Connecticut General Statutes, as amended.

COMMENT: The staff of the Regional Planning Commission of the Capitol Region Council of Governments has reviewed this referral which represents a revision to a previously proposed zoning regulation revision to eliminate LID requirements for certain residential developments. We find that the proposed moratorium on LID requirements which will apply to existing residential home sites, while not supportive of goals and policies of the Capital Region Plan of Conservation and Development is reasonable because it is designed to be of a limited duration and for the purpose of identifying appropriate LID requirements for development on existing home sites which will protect the environment but are reasonable and not unduly burdensome for homeowners. Questions regarding this referral should be directed to Lynne Pike DiSanto. In accordance with our procedures this letter will constitute final CROG action on this referral. The public hearing date has been scheduled for 1/28/2015."

Craig Minor: It is signed Lynne Pike DiSanto, AICP, Senior Planner and Policy Analyst.

Chairman Hall: When I read this letter from the Conservation Commission I didn't think it is dramatically different from what we are trying to do because it says that the Town of Newington researches and investigates proposals for implementation; such changes to the regulations and ordinances that will affectively and pragmatically apply the goals and principles of LID to the soils and developed properties of the municipality within a 12 month timeline. And, they cite that they recommend that within that time, within that year, that they still want the people be required to investigate proposed design improvements, and if it is deemed not to alter the absorption of rainfall, the permit shall not be affected. If we do a moratorium most likely, and again, that's going to be up to you folks, but most likely we would be talking about a 12 month moratorium in order to analyze this whole process, to end up with something that we feel is going to be beneficial to both the Town and the homeowner. I don't think we are going to skew it one way or the other. Right now it does skew it pretty much towards the Town. I think what we will try to do in that twelve month period is find a middle ground somewhere, so that we have something that the homeowners, A: understand, and B: can live with, physically and financially, and also something that would be good for the Town. I think we are going to try to get some kind of balance; I think that is the whole point, to give us that year, and they cited a twelve month time frame, so I don't think we're all that far off from what they are asking us to do.

Commissioner Leggo: I agree with you. The difference that I see is basically they're suggesting that the homeowner make efforts, investigate possibilities. The only question I have is, who's to say that they have tried enough, or didn't? Who's going to govern? Did they make an effort? I'm not saying either way is the right answer, I just think we really need to investigate it further.

Chairman Hall: I'm not sure that we have enough information to guide them. At this point if somebody comes to the counter, we have to actually guide them with it.

Craig Minor: So long as the regulation is in effect, which it would be unless you adopt a moratorium, if a homeowner comes in and says, "hey, can you work with me, I have this alternate proposal", the staff would have to say, "sorry, we have to enforce the regulations. You have to give us the full boat. We don't have the authority to compromise with you because the regulations are what they are". That's why we need the moratorium, so that we can work with the homeowners during the time of the moratorium, and at the same time, come up with some new regulations.

Commissioner Aieta: Just to remind the Commission, when this was all proposed, and the consultants first came in, the draft requirements were even more restrictive, it was 300 square

feet. I fought for the 600 or something greater than that, and we all agreed to the 600 square feet. I can remember conversations with the Town Engineer, Chris Greenlaw, that he was not comfortable about what to do with homeowners when the whole thing was proposed; he was never completely sold on how to handle the homeowner section of this ordinance. He saw the problems before it even started, and now the rest of us are seeing the same problem.

Commissioner Sobieski: I would really like to hear from the public as to what they think about the \$3,400 added on to the cost of a building. That's going to put a crimp in somebody's budget. I think this is an awful lot of money that we just got as a round figure here. I mean, you put in a simple patio of 600 square feet, you are talking at least \$3,400. That to me is really cost prohibitive.

Commissioner Leggo: And you could be doubling, if not more.

Chairman Hall: Any more questions before we go to the public?

Commissioner Serra: I'd just like to add, Cathy, besides the \$3,400, peoples time, time to come down here and try to get permits, the staff trying to get answers, and tying up their time. We should make it as easy as possible for the homeowners and the staff. This moratorium will give everybody the time to get the right answers, to give the homeowners the right answers, and for the staff to have the right answers to give. So this is something that I do think we need.

Chairman Hall: Any other comments? All right, this is a public hearing, so at this point we would like to hear from anyone from the public who wishes to speak in favor of the moratorium. Anyone wishing to speak in opposition to the moratorium? Anyone just wishing to speak, neither pro nor con, just speak to the issue? Seeing none, what is the pleasure of the Commission?

Commissioner Aieta: Madam Chairman, I'd like to close the public hearing and move this forward as Old Business at the next meeting.

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

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

None

V. REMARKS BY COMMISSIONERS

None

VI. MINUTES

- a. Special Meeting January 14, 2015
- b. Regular Meeting January 14, 2015
- c. Special Meeting January 28, 2015
- d. Regular Meeting January 28, 2015

Chairman Hall: Now the special meeting of January 14th and the regular meeting of January 14th, we got at the meeting last time, and we wanted to have time to review them.

Commissioner Leggo moved to accept the minutes of the January 14, 2015 special meeting. The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YEA.

Regular Meeting, January 14, 2015: Commissioner Leggo moved to accept the minutes of the January 14, 2015 regular meeting. The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YEA.

Special Meeting January 28, 2015: Commissioner Sobieski moved to accept the minutes of the January 28, 2015 special meeting. The motion was seconded by Commission Serra.

Commissioner Anest: Norine, my name is mis-spelled in several different places.

Craig Minor: That's my fault, a formatting glitch crept in. I will correct that.

Chairman Hall: Then we will be accepting the Special Meeting as amended. The vote was unanimously in favor of the motion, with six voting YEA.

Regular Meeting, January 28, 2015: Commissioner Sobieski moved to accept the minutes. The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion with six voting YEA.

VII. NEW BUSINESS

a. Possible Moratorium on Higher Density Residential Development in the CTfastrak Station Neighborhoods.

Craig Minor: At the last meeting the Commission asked me to prepare a map showing all of the zones within ½ mile of the CTfastrak stations, which the Commission has in front of them. I'll put it on the wall for the public to see also.

Last month I was asked to prepare a map, which your Assistant Town Planner did (we hired a guy with GIS capabilities and we're getting use of them), and also we wanted to talk some more about the types of higher density housing. That's one of the reasons that I prepared the chart, and I know that the Economic Development Director, Andy Brecher would like to talk to you also about the different types of high density housing, but he's not available tonight. He will come to your next meeting.

Chairman Hall: First of all, on the map, the bright pink, second item, the first is busway line, second is busway location, that's the station. The busway is the yellow line.

Craig Minor: Busway station location.

Chairman Hall: Yes, there are two station locations, one at Newington Junction and the other at Cedar Street and Fenn.

Craig Minor: What I would like to do for your next meeting, or maybe the meeting after, is actually go out and do an inventory of the existing kinds of higher density residential in these areas, and also determine if there is any potential under our regulations for new higher density residential development in these areas, because it might be moot; there may not be any ten acre parcels that are vacant that could be developed.

Commission Anest: But if someone were to go and buy a bunch of different pieces, and then re-deed them as one piece...

Craig Minor: Then there would be, yes.

Commissioner Anest: And there is enough vacant land over on Day Street that that could possibly happen.

Craig Minor: Yes.

Commissioner Aieta: It's interesting to see that the Fenn Road area, the whole busway line, a good portion of it is abutted by wetlands. How would that affect what we do with the 100 foot setbacks?

Craig Minor: That is certainly acting as a constraint on development in that area.

Chairman Hall: In your comments you said you were going to point out non-conforming houses in the I zone.

Craig Minor: I'm sorry, I did not get a chance to do that.

Chairman Hall: So if we could have that added?

Craig Minor: Yes.

Chairman Hall: And the chart; is this the chart we were using for the zoning regulation review?

Craig Minor: Right, and actually I created it for this purpose. These are the types of housing that are allowed in the zones that are within a mile of the CTfastrak station. There are other kinds of residential housing that are allowed elsewhere, such as the Newington Ridge Preserve, which is in the PD Zone. That's another type of residential housing, and it's not on this chart because this chart I made just for the CTfastrak purposes. But if we are going to use this chart for a larger, more global review of all of the different types of housing that are allowed in Newington, I'll have to add the Deming Farm type of housing.

Chairman Hall: I think there were three or four that you took notes on tonight that you were going to add. Maybe we should have two charts: one for CTfastrak, and one for the town. Once we have heard from Andy Brecher at the next meeting, we'll have a better idea, because I know that that presentation has been made, I think at least twice that I am aware of, that's what I want to hear - the presentation that he has made to other organizations in town, specifically about this area, and his ideas. It's really important that we hear it straight from him. I don't want to hear it second hand. Anyone have anything to add to this?

Commissioner Aieta: Madam Chairman, this is under New Business and I know that you said that the public would have input; how are they going to have input?

Chairman Hall: I didn't say tonight.

Commissioner Aieta: Does this have to go to public hearing?

Chairman Hall: Oh yes, absolutely. We are not going to do this in a vacuum.

Commissioner Aieta: So this item under New Business is just for the Commission's benefit.

Craig Minor: To workshop it.

Commissioner Aieta: To finalize what we are sending out for a public hearing?

Chairman Hall: Right. Because we don't even have our direction yet, and we've got to get our direction before we can send it to the public. Anything else on that?

VIII. OLD BUSINESS

A. Petition #01-15: Special Exception (Section 6.2.4: Free Standing Sign) at 345 East Cedar Street ("Gospel Hall"). ARTfx Signs applicant, The Gospel Hall, owner, Max Ballardo, ARTfx Signs, 27 Britton Drive, Bloomfield CT, contact.

Craig Minor: The Commission has my report, in the package. Does the Chairman want me to read it?

Chairman Hall: I think so, so the people at home can hear it.

Craig Minor:

"Description of Petition #01-15"

The applicant would like to install a free-standing sign in the front yard of the property. Section 6.2.4 allows such signs in any non-residential zone by special Exception.

Staff Comments:

1. The ZEO has confirmed that the size of the proposed sign is in compliance with Section 6.2 (Signs) of the Zoning Regulations.
2. The location of the proposed sign is on private property and not within the right of way of East Cedar Street (CT Route 175.) There was some confusion about this because the applicant submitted conflicting site plans, but during the public hearing the applicant's representative clarified that the location of the sign will be as originally approved by TPZ in 2007, as shown on the first site plan that they submitted with this application.
3. The requested sign contains a 1'7" x 7'4" "programmable electronic message center." The applicants have stated that this will be used to display a text message, usually related to next week's sermon, which will change no more frequently than once a week.

This would appear to comply with Section 6.2.1E which prohibits signs that have "intermittent internal illumination by mechanical or digital controls that produce an illusion of movement such as, but not limited to, flashing, running, rotating, video graphics, change in color and brightness or scrolling advertisement message...." But it appears to allow internally illuminated signs that do not produce any illusion of movement.

However, during the meeting on January 14, 2015 and at the public hearing on January 28, 2015 several TPZ commissioners stated that when this section was revised effective June 8, 2011 it was the Commission's intent to simply start allowing digital fuel product price signs in certain zones, and to continue the prohibition on all "flashing, running, or rotating signs."

My only recommendation at this time is for the Commission to consider amending Section 6.2.1E to clarify the Commission's intent regarding internally illuminated signs."

Commissioner Aieta: I think if you read the regulation, the first part refers to digital signs, and then it goes on to say that in addition to digital signs, "running, flashing, rotating", those are all things that digital signs can do. We were specific that we interpreted how we wanted to proceed, that digital signs are prohibited, and all of the rest of the language attached to it was an explanation of how a digital sign worked. It is confusing, and probably needs some clarification, but the intent of the regulation is very specific. And the history of zoning meetings and the past applications for this type of a sign upholds that interpretation.

Chairman Hall: Further comments?

Commissioner Aieta: We're still under open Public Hearings?

Chairman Hall: No, this is Old Business.

Craig Minor: I have a draft motion, if someone wants to read it.

Chairman Hall: I know that some of the Commissioners were not on the Commission at the time that we did this, but some of us were, and I think those of us who were on the Commission at the time are in agreement that the intention was to prohibit this. What we don't want, because honestly, when you have a regulation that would allow these digital signs, we have no control over the sign once they have the proper size, shape, whatever. What happens after that if we allowed digital could be anything that we saw on Route 6 in Bristol, and we all knew at the time that is definitely what we did not want. I think those of you who saw that the last time seemed to be pretty much in agreement. We're not interested of having in town, those types of signs that we can't control. Right now we can control size, shape, and that's about it.

Commissioner Leggo: That was my confusion with the whole thing, just going by the words that are written there. It doesn't say what the intent was, and being someone who was not here when it was written and what the intent was, it's kind of, the way it's written, I think we definitely need to clarify it.

Chairman Hall: There's no question. I think when we wrote it it made sense to us, and we knew what we wanted it to say. I think we were reading it that way, and actually the Planner and I had a bit of a go-around on this, because he was reading it one way, and I read it a different way. I showed him how I was reading it, actually with an issue of punctuation because it was really the absence of a comma that threw the whole thing off. So, we still have a bit of a disagreement, but not totally.

Commissioner Anest: I was on the Commission when that was done, and I don't want to beat a dead horse, but I know that we have turned down other individuals who have come before us who wanted this type of sign, so I don't want to start setting a different precedent. We need to review the regulations, make them more specific, whatever the intent of the Commission in 2011 was. No digital signs, just as Cathy has said.

Chairman Hall: Now, in order to be balanced, we have two draft motions. One is to approve and one is to deny, and I'm going to leave it up to you as to which one you want me to pass out.

Commissioner Aieta: To be fair to the applicant I would like to deny this without prejudice so he can come back and propose a sign without paying another fee, because of how it came down, the incorrect information that he got from the former ZEO.

Chairman Hall: We have the right to do that, don't we?

Craig Minor: Yes.

Commissioner Aieta: I would like him to be able to come back as soon as the next meeting and say, "these are the changes I have made to the sign, and can we proceed with the changes", if he so desires. I would like to put that in the form of a motion to deny, but it's without prejudice in that he would not have to pay any more fees to bring in a sign that meets the regulations.

Chairman Hall: Craig, do we have to put that as a condition?

Craig Minor: Yes, let's make that a...well, let me pass this around and we can do the motion to deny without prejudice.

Chairman Hall: And that will do it?

Craig Minor: Yes, and then the staff knows that that is your intent.

Commissioner Aieta: Well, I'd like to tweak the findings, because when I read the regulation, I read it differently from what is here. It's in addition to being, that digital signs are prohibited, that the, in addition to that, flashing, running, video graphics, color change and brightness is in addition to, it's an explanation of a digital sign.

Craig Minor: Have a third finding, that the intent of the regulation is to illustrate...?

Chairman Hall: No, to prohibit digital signs.

Commissioner Aieta: I read it differently. I read it that digital signs are prohibited, and then it goes on to say, "flashing, running, video graphics, brightness and change" are examples of digital signs.

Craig Minor: I think what would work would be to make the motion to deny with three findings. The first two are as presented, and the third finding would be "flashing, running, rotating, video graphics, change in color and brightness are intended as examples of prohibited digital signs".

Commissioner Aieta: Characteristics.

Craig Minor: "Are characteristics of prohibited digital signs".

Chairman Hall: Of digital signs which are prohibited under Section 6.2.1

Craig Minor: So number three would be: "flashing, running rotating video graphics, change in color and brightness" are characteristics of digital signs which are prohibited under Section 6.2.1 Subsection E.

Commissioner Aieta: I'm making the motion that the Planner will read the motion because of the additional findings.

Commissioner Aieta (through Craig Minor) moved to deny without prejudice Petition #01-15: Special Exception (Section 6.2.4: Free-Standing Sign) at 345 East Cedar Street (Gospel Hall) ARTfx signs, applicant, The Gospel Hall, owner.

FINDINGS:

1. The requested sign contains "intermittent internal illumination by mechanical or digital controls that produce an illusion of movement such as, but not limited to, flashing, running, rotating video graphics, change in color and brightness...."

2. Signs that contain "intermittent internal illumination by mechanical or digital controls that produce an illusion of movement such as, but not limited to, flashing, running, rotating video graphics, change in color and brightness..." are prohibited under Section 6.2.1, Subsection E of the Town of Newington Zoning Regulations.

3. Flashing, running, rotating video graphics, change in color or brightness" are characteristics of digital signs which are prohibited under Section 6.2.1 Subsection E.

Commissioner Aieta: Item 4 should contain information of the waiving of the fees.

Craig Minor: "Number 4: If the applicant chooses to reapply, the application fee shall be waived."

Commissioner Aieta: As read by the Planner, that is my motion. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion to deny without prejudice, with six voting YEA.

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING

- A. Petition #24-14: Special Exception (Section 3.4.4 Home Occupation) at 14 Oregon Avenue, Amanda Scordino, owner/applicant/contact.

Craig Minor: We have two applications that require a public hearing. The first is for a Home Occupation for a woman who sells puppies. I've gone through the regulation many times looking for guidance as to whether something like this is clearly prohibited. It's not, it's not clearly prohibited, so the Commission may, after the hearing, decide that it is something that you do not want to approve. But it's not prohibited, so I recommend you schedule the hearing for your next meeting, and let the chips fall where they may.

Commissioner Aieta: When you read the regulation, is there specific language in there that allows "retail"? The regulations are written so as to if it is not stated in the regulation, it's not allowed.

Craig Minor: Right, and we give some examples of Home Occupations and Professional offices: "such as, but not limited to TV and Radio repair, Doctors, Attorneys, Accountants, and Architects, in a dwelling subject to the following conditions". That's really a hodge-podge of types of businesses. I tried to find a pattern there, such as businesses that...

Commissioner Aieta: None of those are retail.

Craig Minor: Yes, that is one thing that is not in there; none of these are retail. You're right, none of these are retail. Well, what's the pleasure of the Commission?

Commissioner Aieta: I read the application and the letter from the applicant, and the explanation of what she is doing, and she's been doing it apparently for some time, and just realized now that she requires a permit from us. It's not a use that would cause a really big problem, but my problem is that it doesn't meet the regulations the way that it is written. So for her to get it, she'd have to go for a variance from the Zoning Board of Appeals. Is that correct?

Craig Minor: I don't disagree with anything that you said.

Commissioner Aieta: No mention is made of retail sales, that's in your staff report. Those examples of home occupations are more professional office types. I don't think that it is so offensive, what she is doing, and probably if it said retail sales, I would want to approve this, but I don't think we can the way that the regulations are written.

Craig Minor: Okay.

Commissioner Aieta: It's up to the other Commissioners. I'd like to hear from them, their thoughts on this application.

Commissioner Anest: I agree with Frank and I feel that (inaudible)

Commissioner Aieta: It's not very disruptive what she wants, and she has people coming in maybe a couple of visits a month the way that she explains it, but our regulations just don't allow it, the way that it is written. I don't think we can waive or grant a variance of our own regulations.

Chairman Hall: We know we can't. This is something to remember when we get to this section.

Craig Minor: I'll make a note that we want to clarify this, to make it explicit that retail sales are not allowed.

Commissioner Aieta: I think it is specific by not mentioning it, because that's the way we interpret our regulations. We interpret them that if it is not a stated use, then it's a prohibited use. If it mentions a doctor's office, a professional office, then that's what we consider an appropriate use of the residential zone as a home occupation.

Craig Minor: I agree completely. Maybe the Commission might decide to insert the phrase "retail", but at the moment, since it's not in there, you make a good case.

Commissioner Aieta: But that would open it up.

Craig Minor: Or at least not say that it is prohibited out of hand, that the applicant can come in, like this one.

Commissioner Aieta: You would have to go and basically state which ones are not objectionable.

Craig Minor: No, you'd let them come in. For example, if she wanted to sell 12 full grown Great Danes a week, you'd say, no, that's not allowed, but two or three puppies a month, maybe you would allow. I don't think you would be compelled to approve someone's application just because retail is on the list of allowable instances. But you make a very good point, that since it's not on the list of allowable businesses, then you can't approve it, because your regulations don't give you the ability to. I suggest that you think about amending the regs to give you the ability to approve, on a case by case basis, a retail business that is presented to you as harmless. But we can come back to that.

Chairman Hall: What triggered this to begin with?

Craig Minor: I don't know, I don't know how she found out that she needed to get permission. She's been working on this application since May; I've been working with her for a long time to get it into a shape that can be presented to you. I think that's what she said, that it came to her attention that she needed a permit.

Commissioner Serra: I'm not disagreeing with anyone, but I do have one question on this. If somebody is doing TV/Radio repair in their home, and they get a TV but the customer doesn't want to fix it, too much money, and the repair tech fixes it, and sells it to another customer...

Commissioner Aieta: But his main business is repairing people's products.

Commissioner Serra: I'm not disagreeing with what you are saying Frank, but it's just a little caveat there.

Commissioner Aieta: The appliance repair guy is not "retail" in the sense of selling products out of his home. Basically his profession is to fix things that people bring in, and give back to them. He's not selling a product. He's selling a service, the service being the ability to fix something.

Craig Minor: Let me just throw in one more thing. The reason I wasn't sure if retail was prohibited is because the last paragraph gives some examples of uses that are prohibited: barbers, hair salons, nail salons. So my thinking was, if the Commission didn't want retail, they would have said, "retail is prohibited". But they didn't.

Chairman Hall: "Not limited to".

Craig Minor: Agreed, "Not limited to". That's why for me it was a gray area, so I'm glad you clarified what the Commission's intent is.

Commissioner Aieta: We'll look at this, allowing retail as a home occupation. It opens it up to too vast an area. A guy could have a little mini-mart in his house. It just opens it up to a confused regulation.

Craig: Okay, so I know what I need to do on that one.

- b. Petition #04-15: Special Exception (Section 3.11.6: Restaurant) at 337 Willard Avenue Romraj LLC, owner; Dale Hume, applicant; Adrian Myles, 115 Fuller Drive, West Hartford, CT, contact.

Craig Minor: The next one is for a Caribbean restaurant at 337 Willard Avenue. The ZEO has confirmed that there will be enough parking, so the application is complete. I recommend the hearing be scheduled for your next meeting.

Commissioner Aieta: Did he take into consideration the 7-11?

Chairman Hall: 7-11, Chef's Dog House, Willard Bistro...

Commissioner Aieta: I think there's more in there - a liquor store. I'd like to see how he determined the parking requirements. I'm not against this restaurant coming before us, but I just want to make sure, because I have been there at lunch time and there is no parking. Do you want the ZEO to do that now, or during the public hearing?

Craig Minor: Let's do it now, because if you are not satisfied with his explanation, then we'd better not schedule it for a public hearing.

Mike D'Amato: Do they have the sketch?

Craig Minor: No.

Mike D'Amato: Craig and I talked about this, and what we looked at was the previous use of that particular tenant space.

Commissioner Aieta: What was there?

Mike D'Amato: A barber shop. We have a floor plan, which Craig has, that gives us the total square footage of the unit, and what his plans are for the "public area" versus what he is using for

prep, or whatever. So we looked at the difference in square footage, what would have been required for the barber shop, and what would be required now as a restaurant, and the requirement is less.

Commissioner Aieta: That's if he does not have seating.

Mike D'Amato: No, that's with seating.

Commissioner Aieta: That's with seating?

Mike D'Amato: Yes, based on the public area that he submitted. There is a floor plan and there is also e-mail correspondence between him and me verifying that what he has drawn is what he intends to do.

Commissioner Aieta: What is the maximum number of people that can eat there?

Mike D'Amato: We're basing it on the amount of public area, whether it's a table with two seats or four seats. I based it on the amount of area open to the public, and what that generates as far as parking requirements. Based on what he has, and I went a little bit on the high side, he's fine. There's a note in there that even if he doubled the public area he still has enough parking.

Commissioner Aieta: Compared to a barber shop?

Mike D'Amato: Exactly. Because the barber shop was occupying the whole space.

Commissioner Aieta: Okay, so you are taking the square footage, not the maximum number of people that could be eating in the area.

Mike D'Amato: Such as a small square footage being used for the public.

Commissioner Aieta: What is he talking about, three or four tables?

Mike D'Amato: It's less than 100 square feet.

Commissioner Serra: So the bulk of it is take-out?

Commissioner Aieta: Now I understand how you interpreted the parking regulations. I know the site is very tight for parking because there is a menagerie of tenants in the building.

Mike D'Amato: Right, so if he is approved, it is based on information that he has given us. There's not going to be an increase in parking demand, there's no business that is going to generate more parking requirements.

Commissioner Aieta: The restaurant is basically a take-out restaurant?

Mike D'Amato: Right.

Commissioner Aieta: Similar to a Chinese take-out restaurant?

Mike D'Amato: Yes, he intends to do all take-out. I haven't spoken to him much, but he doesn't plan on having a full service restaurant.

Commissioner Aieta: Thank you.

Craig Minor: So is the Commission okay with scheduling this for the next meeting? Okay.

X. TOWN PLANNER REPORT

A. Town Planner Report for February 22, 2015

Craig Minor: There's no "Town Planner Report" in here. Well, it was a slim report. No report on complaints brought up by the Commission at previous meetings; the status of the CTfastrack subcommittee is that it hasn't met in about a year, and probably won't again; bonds: the owner at 46 Commerce, I think I mentioned at the last meeting, is selling the property so he now realizes he needs to comply...I told you about that at the last meeting. I have nothing new on performance bonds, so that's my report, and the ZEO is here.

B. ZEO Report for February 2015

Mike D'Amato: So you have the report, and I think it's pretty self-explanatory and I won't go through each one, but if you have questions about what is here, and stuff that is going on, it probably would be easier to just fire them at me.

Commissioner Anest: I know that Craig got back to me, and I think I forwarded regarding the CITCO station on Garfield Street.

Mike D'Amato: Yes, it was brought to my attention after the last meeting that the CITGO station on the corner of Garfield and Walsh had an LED price per gallon sign, so I looked into it, because obviously they are not allowed in that zone. A building permit was applied for in September, and was approved by the staff; I don't remember who approved it.

Craig Minor: It was the Acting ZEO.

Mike D'Amato: So, what we decided to do, we being Craig and I, I don't know if anyone else was involved, we decided that I write them a letter that said that it was our bad, we're not going to penalize you for that, but moving forward we'll be treating this as a non-conformity, and if you willfully abandon a non-conformity, and try to put it back up, you can't, just like any other non-conforming use. That is what we decided to do with that.

Commissioner Serra: So if a car runs into it, it's gone?

Mike D'Amato: I think it's along the lines of say they choose to take it down because it needs repair, and they don't have the money to put it back up, and two years down the road, they sell it, that kind of thing.

Commissioner Aieta: I would have preferred to have you come to the Commission before you sent the letter saying this is okay, because the Commission didn't okay it. The regulations are specific; we allow it in the Berlin Turnpike zone only, along the Berlin Turnpike. Does it meet the sign requirements as far as the size and everything that are stated in the regulations?

Mike D'Amato: They were doing a swap out; they were taking down the existing sign and putting up the same square footage, only digital.

Commissioner Aieta: No, it's specific in the regulations: the size of the sign, the price sign that you put up, it states the actual dimensions that you can put up. Can you read it for us, please? If it's bigger than that, then I'm going to have a little problem with that. You could stretch it and say, well we allow it in the regulations, we allow it only on the Berlin Turnpike, it's not, it's definitely not allowed in that zone where that gas station is, that's a neighborhood type business zone, specifically it is in the center which we try to be more restrictive on the signs in the center of town.

Craig Minor: One foot high by three feet wide.

Commissioner Aieta: Do you know how big it is?

Mike D'Amato: Not off the top of my head, no.

Commissioner Aieta: It's a lot bigger than that? So it doesn't even meet the regulations as stated, it doesn't even meet the size requirements, it's bigger than the size requirements. So, now it has two strikes: it's not in the zone, it doesn't meet the size, and it's a digital sign. It's got all of these things, and we just denied an applicant who came in last week, we denied him the same thing, a digital sign.

Craig Minor: We don't know that the size is wrong. It may be wrong, but Bonnie did not make a lot of mistakes, I mean, she made a mistake here clearly, and I have no excuse for it, but she didn't make a lot of mistakes.

Commissioner Aieta: If she had read the regulations, apparently she didn't.

Craig Minor: I think she didn't realize that that piece of property is in the Town Center zone, and she didn't think to ask herself, what zone is this in? I'd better check.

Commissioner Aieta: Read the regulation.

Craig Minor: "Fuel product", what I am about to read is allowed, "fuel product price sign that is digitally controlled and a component of the business's free standing sign provided that each product per gallon price size does not exceed one foot high by three feet wide, and does not move, flash, run, scroll, rotate, or change color or brightness". And then says, "shall not be permitted in the Town Center district, or the Business zone".

Commissioner Anest: Doesn't the application ask what zone it is in?

Craig Minor: We don't have zoning permit applications in Newington. Someone applies for a building permit, and the building inspector at his discretion refers it to the ZEO to sign off, but not in all cases.

Commissioner Anest: I mean, on the zoning permit application.

Craig Minor: There is no zoning permit application. I think there should be. But that would be putting a new administrative burden on people that has never been there before, so, if you want me to do that I'll be happy to.

Commissioner Anest: But it should be on the application.

Craig Minor: There is no application.

Commissioner Anest: When they came for the sign, what did Bonnie sign off?

Craig Minor: She probably checked the box on the bottom of the building permit application.

Commissioner Anest: Okay, on the building permit application, doesn't it ask what zone it is in?

Craig Minor: I don't know.

Mike D'Amato: I agree with Craig, I've seen a lot of what Bonnie approved, and I did work with her for a short time, and she had a pretty good idea of the regs, so my guess is she just didn't realize it was in the Town Center zone. I understand that you are saying to just put a little hash that says, add the zone. I can tell you from what I see in reviewing applications that come through, 95% of every application for the zoning permit which is separate, like a less than 200 square feet shed, they don't know what zone they are in, it's blank. So I'm checking it, and filling it in.

Commissioner Anest: But it is there to be filled in.

Mike D'Amato: It's there to be filled in, but.....I try to fill it in, just because I don't know the regs well enough to say, oh, it's that zone because it's that street, so I'm looking at it to determine the zone, and then saying, okay in that zone, what are our options.

Commissioner Anest: So don't you pull the street file, the property files?

Mike D'Amato: Yes, and that's what I did for this, and that's how I saw it was just a swap-out. They literally just took down the channel letters that you put up with a magnetic pole and replaced exactly the same size, which is why my guess is that the dimensions are probably okay.

Commissioner Anest: For the magnetic, just the magnetic, was there a size?

Craig Minor: The rest of the sign has to comply with our free standing sign regulations, which is, you can have as many square feet of signage as you have frontage of the building, but the digital portion, the price portion, cannot be more than 1 foot by 3 feet.

Commissioner Aieta: For the next meeting, can we get the size of the digital portion of the sign, because if it is bigger than what is allowed in the regulations, I'm going to ask this Commission to, to,

Craig Minor: Revisit it.

Commissioner Aieta: Yes, revisit it, and hopefully we will get it removed, if it doesn't meet that requirement. I mean, I understand that someone on the staff made a mistake, but that's not our mistake as a Commission, and it dilutes that whole regulation, because now we have this one, and we've got the one on the Berlin Turnpike, so that when people come in, like the church, that want a digital sign and we say no, they look at us like, well, why can't we have it? The gas station in the center of town has it, it's bigger than the regulation, and it's in the wrong zone.

Mike D'Amato: Well, I think this is different from the potential church sign, because we allow these specific signs, just not in that zone; it was an error.

Commissioner Aieta: Because we allow it in a restricted size and we allow it only in certain zones.

Mike D'Amato: But I don't see how I as the ZEO can send them a letter that says you now have to take that down, and eat all the money you spent, because the person before me made a mistake.

Commissioner Aieta: When the next guy comes in, say the gas station on the corner of New Britain Avenue and Maple Hill Avenue, and he wants a digital sign, how do we tell him he can't have it when he comes in here and says, well the guy in the center got it?

Craig Minor: Because we made a mistake.

Commissioner Aieta: Our excuse is, we made a mistake?

Craig Minor: There is a letter on file acknowledging that we made a mistake, and that we will not be, and Mike didn't read this part, the end part of that letter says that we will not be compelled to issue a similar incorrect permit for somebody in the future just because the previous acting ZEO made a mistake. What else can we do? We can't pretend we didn't make a mistake. We can't sweep it under the rug, and we can't ask the property owner who in good faith spent a lot of money on this sign to take it down.

Commissioner Aieta: You could ask the property owner to cut down the size of the sign, and go and get a different sign.

Mike D'Amato: Do you want me to go get the application? They came with an application, they have a photo of what they had and a photo of what they propose. So, if that's where, and that's where I sent my original e-mail, they played by all of the rules.....

Commissioner Aieta: No they didn't.

Mike D'Amato: Well, they did, by what they thought were the rules. When someone comes before me and asks a question or makes an application, it's my job to say whether you can or you can't. If I say you can, it's not your bad, they put their faith in us to tell them what this book says, and we told them, this book says you can. We can't then say, after, September, October, November, December, January, well now you can't, and you can eat the money you just spent. I should just go back to my office and get the application.

Commissioner Sobieski: I'd like to make a suggestion that until Mike gets his feet on the ground, and knows the zones well enough, all correspondence that goes out should be reviewed by the Planner.

Chairman Hall: I think he did, didn't you. You reviewed the letter that Mike sent?

Craig Minor: This letter, yes, but the horse was out of the barn at that point.

Commissioner Sobieski: And also if we have a temporary zoning officer again, I think that anything that is applied for should be reviewed not only by you, but by this Commission until the officer knows what the zones are. We've had too many, this person is interpreting it this way, or that way here.

Craig Minor: That's not a bad idea.

Commissioner Claffey: Another thing that might be said is how he goes through it, is a good inclination that he is doing the procedures, so you know, I know things from the past, I don't think we need to take it out as harshly

Commissioner Aieta: We're not take it out, it wasn't in that issue.

Commissioner Claffey: No, no, I just think, the way that he presented it to us was a very, very good way.

Commissioner Sobieski: In 169 cities and towns, the zones are different, so the zone in Town A, comes to Newington, it's different. You've got to read the book a couple of times is all I'm suggesting. I'm not taking it out on anybody, I just saying that until everybody gets their legs under them and knows what is going on, maybe it should be reviewed.

Commissioner Anest: What signs come before us?

Craig Minor: Just free standing pylon signs.

Commissioner Anest: Isn't that what this is?

Craig Minor: Yes, but it was just replacing part of an existing one.

Commissioner Anest: So they were just replacing the guts.

Craig Minor: That's my understanding, yes. If they wanted to move it six inches, they would have had to come back to you.

Commissioner Anest: If they were going to take it down and put up a new one?

Craig Minor: On a case by case basis. If they are smart, they figure out a way to not have to come back to you. They will live with a sign that looks like a bowling pin because it's already there and they would never get permission for a sign that big at that location today, so they find a way to live with what's already there.

Commissioner Aieta: So if the ownership changes on this gas station, at that point, does this go with the land, does it go with the applicant; who does it go with?

Craig Minor: If all they are doing is changing the word CITGO to Exxon, that would not come back to you. If they wanted to make it bigger or taller, it would come back to you.

Commissioner Claffey: What Frank is asking I think is.....

Commissioner Aieta: When are we going to get rid of the sign?

Mike D'Amato: I don't have a scale, but the total free standing sign that we are talking about is split; you have "CITGO" on the left and the digital fuel pricing sign on the right. It looks like, there is a note here that says that the numbers are twelve inches.

Chairman Hall: That's one foot.

Mike D'Amato: As far as being able to tell by scale, half the sign is four feet, they certainly don't take up half of the sign, so it appears, I don't have a scale with me, you're welcome to take a look at it.

Commissioner Serra: Is there a picture of how the old sign looked before they did this?

Commissioner Aieta: The whole sign, the horizontal dimension is four feet? And the vertical dimension is how big?

Mike D'Amato: The total pylon is 4 x 8.

Commissioner Aieta: It's four feet by eight feet long.

Mike D'Amato: Correct.

Commissioner Aieta: Now, CITGO is on half, so this is four by four, and it's double sided, so this would be bigger than what's allowed.

Craig Minor: But you have to know how big the price portion is.

Mike D'Amato: The note on here is that the digital LED's are twelve inches high.

Commissioner Aieta: When you measure the sign, you measure the sign.

Chairman Hall: But we're breaking it down.....

Mike D'Amato: So they have a separate permit that says, "replacing existing 4 x 8 pylon sign with new 4 x 8 LED cabinet sign" and it shows.....

Commissioner Leggo: But the reg states that each product price per gallon cannot exceed 1 x 3.

Commissioner Serra: So basically, they just set it into what was there. It's within the existing frame.

Commissioner Camillo: How long is the building? What's the length of the building?

Mike D'Amato: I don't have that information, but I'm seeing here extensive e-mail correspondence between the applicant and Bonnie, so we may be able to come up with something.

Craig Minor: Why don't you let us come back with a report for the next meeting?

Commissioner Aieta: Look at what the regulations say about the total square footage of the digital, because this is a two sided sign, so it's double. It has two per side, so there are actual four areas that are digital, and those can't exceed what the regulations say.

Craig Minor: And none of those four can be more than one foot by three feet wide.

Mike D'Amato: It looks like they accounted for both sides, because they were requesting, they replaced all of the signage on the building, and they requested 82 ½ square feet. The canopy is at least 64, 32 on both sides, plus 13.2 for the first side, so it appears that they took into account both sides of that pylon sign. I can certainly look over this again and give you a better idea.

Chairman Hall: So Mike, what we will do is give you a list, through the Planner, as to the questions we want answered, you'll get back to the Planner, and he in turn will get back to us. Anybody have any other questions on the sheet that Mike gave us? You did a good job.

Craig Minor: And it's all temporary signs. Isn't there anything else going on in town except temporary signs?

Chairman Hall: I have a question. Those little black and yellow signs that are popping up, even in our parking lot.

Craig Minor: You mean the mattress sale?

Chairman Hall: Please explain that to me. Why are they sitting there?

Mike D'Amato: Yes, I saw those this morning when I came in. I made a call to Lou Jachimowicz, the operations person at the Board of Ed to determine if it is a Board of Ed event or if it's someone associated with the Board of Ed.

Chairman Hall: Well, if it is the Board of Ed, why would they be allowed to do it?

Craig Minor: Because they are exempt. The Town is exempt. Mike and I had this discussion. If it is the band parents doing this, they are not the Town, and they're not exempt from the zoning regulation.

Mike D'Amato: There are a ton of these around, and maybe because I'm new, I don't want to just go running around and plucking them. I'd rather establish some point of contact with the people sticking them out. Number one, I think it looks better, and number two, it gives them the chance to take them down and we can work together, because this is not going to be the only time that someone is going to put up a sign.

Chairman Hall: Oh, it happens all the time, trust me.

Mike D'Amato: So I'd rather nip it in the bud, and say, these are what are allowed, if anything, and these are what is not allowed. If you have a question, work with me; just don't stick them in a snowbank.

Chairman Hall: That's my big complaint, because some of them are in snowbanks, and as if these snowbanks are not high enough to get around already, we have these black and yellow signs.

Mike D'Amato: Right. So I've reached out to him to figure out if it is the school, and I asked him, if it is not the school, to put me in contact with who it is, so we can go from there. That's what we are waiting on.

Commissioner Anest: I think the concern is, if it is a booster club, then other booster clubs might think, oh, they are putting signs up, we can put signs up, so it's just going to snowball you know, for selling stuff. I think we have to come to some general agreement of what they can and what they can't do.

Mike D'Amato: Well, right now they can't do anything.

Commissioner Anest: The other thing is, we're getting snowfall. The plows are going to come by, and those signs aren't going to be found until July.

Mike D'Amato: It's one thing if you have a temporary sign for a business that is placed somewhere, or they move it, clear it if snows, nothing to just go around and stick 100 in every snowbank.

Commissioner Anest: They are in the State right of way and on some residential properties where people didn't authorize them to be. I think we have to come up with some happy medium.

Mike D'Amato: Yes. We had a regulation for non-profit type educational organizations, you know, organizations that don't have brick and mortar that they can advertise on, and they don't have an infinite pocket that can pay for advertising in all of the other places, and basically we allowed them a certain amount of signs for a certain amount of time. They had to put it on someone's private property, not on a right of way, and they had to get a signature from the owner

that said they had the right to place it here for X number of days, and if you messed up once, you didn't get another permit. It was a free permit from the ZEO.

Commissioner Anest: I do know that when they do their musicals and their plays, parents put signs on their lawns, advertising, but those are parents taking signs home and putting them out, they're not put up randomly.

Mike D'Amato: Right, and that's what it gets at. I would send them a letter and we would go through that, it's for the performing arts department, I looked that up; we didn't want anyone thinking that we were discouraging the arts.

Commissioner Anest: If the parents want to put them on their lawn, that's one thing.

Commissioner Aieta: But just sticking them on snow banks, as you said, when the snow melts, who the hell knows where those signs are going to be.

Mike D'Amato: I like to have a contact person because if I just confiscate them, they are going to think, oh, they must have just blown away, or must be buried, let me order more.

Chairman Hall: I found it interesting that they put them on Town Hall entrances and exits.

Commissioner Aieta: Maybe a lot of people in Town Hall need mattresses.

Craig Minor: Because we don't get any sleep!

Chairman Hall: Anything else for Mike? He's been sitting here now, he was here for the 6:00 meeting.

Commissioner Sobieski: Mike, good job on the report. Were any of these temporary signs picked up on a Saturday review?

Mike D'Amato: I have not done a Saturday review yet, only because I'm trying to put my feet on the ground, but I will be doing one, my plan is in the next two weeks or week. I want to look at 741 New Britain Ave. that we talked about, and check out the off-site parking, so I'm going to have my Saturday coincide with that, so we can actually look at the parking, and what is going on. The temporary signs are something that we try to address really aggressively because if I get three days where I'm not out on the Turnpike, it just becomes this nightmare, and I get a lot of calls, the person across the street has a sign, how come I can't, and that kind of thing.

Chairman Hall: Anything else? Thank you very much.

Mike D'Amato: Thank you.

XI. COMMUNICATIONS

- a. Notification of proposed Site Plan Amendment at 255 Episcopal Road in Berlin (Corbin Russwin, Inc.)

Craig Minor: I received a notice from Berlin that the factory at Corbin Russwin, Alloy I think is the actual name of it, wants to install a solar panel farm on their property. I think that's pretty cool, it struck my fancy, so I asked the Town Planner in Berlin to share with me their site plan. I did a Google map to show where that is. It's just for your information, but our regulations don't allow this, so someone in Newington could not do this. Two years ago I suggested we amend our regs to allow this, but the applicant whom it would have benefited withdrew his application, so it

became moot and I didn't pursue it, but it might be something that we will need to look at in the near future. That's all, no action is required.

Commissioner Claffey: Have you heard any other businesses talk about it?

Craig Minor: Solar panels? Yes, we've had a few, but the staff has been able to keep them moving forward as part of a building permit application, because they have always been on the roof, except for the one that would have been on the ground. But then that company decided not to do it.

Commissioner Claffey: So everything has been on a structure, not on grass.

Craig Minor: Yes, correct, so far, but I'm sure, sooner or later, we're going get some serious solar panel interest.

Chairman Hall: I assume that this is going to be on the other side of the berm. If you look at this from Episcopal Road, there's a driveway, and then there is a very nice berm and trees, and then it goes down towards the building, and it looks like that is where it is going to be.

Craig Minor: Yes, the Planner told me that we wouldn't be able to see it from Newington, and I said, I know, but I think the Commission might be interested in the project.

Commissioner Aieta: It doesn't affect any of the houses in Newington being able to see it?

Chairman Hall: No, not at all.

Commissioner Aieta: From the plan that he showed, it's not just one frame, it's a huge thing, but where they are putting it will have no effect on Newington as far as Newington residents being able to see it. It's pretty much tucked into the back.

Commissioner Claffey: Maybe you could get a copy of their regs, so that we can tuck it away, so we can kind of have it on the radar.

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

None.

XIII. REMARKS BY COMMISSIONERS

None.

XIV. CLOSING REMARKS BY THE CHAIRMAN

Chairman Hall: What questions do we want for Mike to have before we go?

Commissioner Aieta: Just make sure that it is within the regulations. They would only be doing one violation, instead of two.

Chairman Hall: They will only be half wrong.

Commissioner Aieta: There has got to be a way at some point that we can get that down. If it changes hands or whatever, or if it changes hands.

Craig Minor: And that is why I thought it was important to send the owner a letter, so that they are on notice that we are going to be treating it as a non-conforming use. If they take it down they've lost it, and they can't come back and say, you didn't warn us that that was what was going to happen. Yes, we did warn you.

Commissioner Anest: So if there is a hurricane, and the sign gets destroyed...

Craig Minor: No, and this is true of any non-conforming use, the owner of a non-conforming use has to intentionally, affirmatively abandon it. It can't just accidentally burn down, blow down, or fall down; he or she has to intend to abandon it. That's what the courts have ruled. There was a case where somebody stopped operating their gas station for something like five years or more, and then when they wanted to restore it the Town said no, because it's been five years, ten years maybe. But the judge told the Town no; the owner never intended to permanently abandon it. He never rented it to somebody else, he never took down the big gas sign or whatever; he never did anything to convert it to a conforming use.

Commissioner Aieta: So now you know, when people come in and try to get an application, now you will know, don't even bring it to us, however you want to entertain it, you've got to stop it at the point of application.

Chairman Hall: Okay, then we will get together again on the 25th of February. Again at 6:00, everybody is still okay with that? Hopefully the snow will stop by then.

XV. ADJOURN

Commissioner Leggo moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 8:40 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary