

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting and Public Hearing

February 24, 2016

Chairman Frank Aieta 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, Connecticut.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Chairman Frank Aieta
Commissioner Chris Miner
Commissioner Domenic Pane
Commissioner Robert Serra
Commissioner Stanley Sobieski
Commissioner Judy Strong
Commissioner John Bottalico-A
Commissioner Michael Camillo-A

Commissioners Absent

Commissioner Brian Andrzejewski
Commissioner Paul Giangrave-A

Staff Present

Craig Minor Town Planner

Commissioner Camillo was seated for Commissioner Andrzejewski.

III. APPROVAL OF AGENDA

Craig Minor: I recommend New Business item B, "site plan approval at 712 Cedar Street" be removed. The applicant's representative is not available this evening, so they have asked that we postpone until the next meeting. I'm also recommending that you delete the approval of the minutes of the last meeting. I haven't had a chance to finish editing them, so we'll do that at our next meeting. I recommend that you move "Old Business" Item A, which is the 8-24 referral, that down to later on the agenda under "Old Business continued", because the urgency of getting a vote on that no longer exists. We need to do it tonight, but we can do it at the normal time rather than earlier in the meeting. Finally, I'm recommending that we add "Town Attorney discussion" to take place after "approval of agenda" so the Town Attorney can discuss an issue that the Commission was concerned about.

Commissioner Sobieski moved to accept the changes to the agenda. The motion was seconded by Commissioner Strong. The vote was unanimously in favor of the motion, with six voting YEA.

IV. OLD BUSINESS

- A. Petition 04-16: Sec. 8-24 Referral of Proposed Sewer Easement at 90 Welles Drive North. Newington Town Council, applicant.**

Postponed until Old Business (continued.)

IV. TOWN ATTORNEY DISCUSSION

Commissioner Pane: Mr. Chairman, I'm going to withdraw on this due to a possible conflict. I'm going to reserve as my right to possibly speak later under Public Participation, but I'm going to recuse myself. Thank you.

Jonathan Chappell: Thank you. I've been handling this matter, directly or indirectly for possibly three years, going on four, depending on what you define as "the matter." There are actually three separate cases that my firm has been handling. The first was the change in the zoning regulations back in 2012 related to auto related uses. There were changes made at that time and appeals filed, and, long story short, the court came out on the TPZ side, and after a judgment was entered an appellate court decision came down and the trial judge, reading it, on his own, opened the case back up and struck certain waiver provisions in the amendments. There was a permit issued in 2013 for the Firestone Auto Care facility. That was appealed but the appeal was dismissed for lack of aggravement. The third case, in 2015, the now-pending case, was commenced by certain neighbors of the Firestone property. That case is basically a claim that the zoning permit issued to Firestone was invalid because it relied on certain provisions of the amended zoning regs that had been stricken. The second component was a noise nuisance complaint, that they shouldn't have to live with the noise that they alleged would be generated by the facility. There is a mediation session scheduled for, we'll call it the "Bielitz" matter, since Colleen Bielitz happens to be the lead plaintiff in the litigation. There are other plaintiffs in that case, and on April 11th there will be a mediation. As part of that potential settlement, there is an application to change the text of certain auto related use regulations. So, with that, I'll open it up to questions, either specifically about the litigation or whatever. I do caution you that we are in public session and we're discussing pending litigation so I'll leave that open to the Commission whether to consider if they want to do that in public session versus executive session.

Craig Minor: I think the Commission's concern was, if they approve the amendment that they have been presented with, would that somehow set up the Town to be at risk for further litigation? Could it complicate the case that is already pending? I heard you say that this is part of the settlement, or part of mediation, so would this in a bad way complicate it from the Town's point of view?

Attorney Chappell: I understand that. As 2013 my office and I requested an application to change the zoning regulations to make everyone happy, if you will, to address concerns that the Commission in its legislative capacity saw fit to address. For whatever reason we never received that and you never received that application until recently. There has been discussion about mediation and it would be very hard to mediate with the Town without something that the Town, or this Commission, can actually do. So, how would it impact this Commission? Any mediation would, any resolution I should say, would make clear that there would be no appeal, so if you do what is asked of you, substantially, (and I'll take questions if you would like about the proposed regulation changes), the idea is to put this to bed and not spur another appeal, on the legislative decision to change your regulations by an applicant.

Chairman Aieta: So from what I am hearing from you, I would probably consider holding off on looking at the request for changing the auto regulations until they have had their mediation in April, is that a fair statement to make?

Attorney Chappell: The public hearing is scheduled for March 23rd. I see no reason not to take public input, and I know that the lawyer for the applicant is planning on that timing. The

lawyers for Firestone, or Guggenheim which is the owner of the site, are likely to have comments too. It is a text amendment, so there is no reason not to take public input and decide what you, as a Commission, would like. There will be some input from Mr. Minor, from myself, from all of the lawyers involved in the litigation, so if the question is, should you close the public hearing and immediately vote on it, that I will leave to you as a Commission. I don't want to make that decision for you.

Chairman Aieta: Who is bringing the application? Who is the applicant?

Craig Minor: The applicant is Modern Tire et al, but...

Chairman Aieta: They are the ones proposing the change in the regulations, so we're under some time constraints. I wasn't sure if we had initiated that or not. We probably would have been better off if we had, because then we would have had more time to let the clock go.

Craig Minor: The Commission always has 65 days from date of receipt to begin the public hearing. Rarely do you wait that long because there is rarely any reason not to go right to the public hearing. Once the public hearing is open you can keep it open for 35 days. You can ask the applicant's permission to keep it open longer, which the applicants usually grant. Once the hearing is closed you have 65 days to make a decision, so there is plenty of time to think about it and not rush to judgment.

Chairman Aieta: I'll open this to the Commission. I know Bob and Stanley might have some comments to make.

Commissioner Sobieski: I'm not an attorney, so you will have to forgive me here, but I want to make sure that we get a final settlement on this, that everybody is happy and we don't see anything negative from this. So I would like to have time to look at it, if that is possible, and I want to be sure that applications down the road, if we have another application... what I'm saying is, will this limit what we can or cannot approve on the Turnpike?

Attorney Chappell: The regulations as proposed are to open it up to pre-existing uses, non-conforming and legal non-conforming uses, and going forward they will be by special permit. So the regs do propose specific criteria for auto uses, and then your special permit process. So it would make it a case by case decision, going forward. Can someone appeal? Of course.

Commissioner Sobieski: You said there were two other operations going on at the same time?

Attorney Chappell: Right, there are two counts: one is a challenge to the Firestone permit, for lack of a better term, claiming that their zoning permit is not valid and that it should be taken back. If it is not valid then they don't have a permit where they are operating. Then there is the second count, which is the noise nuisance count, which is that the site will generate obnoxious noise that violates the noise ordinance and therefore should be stopped. That was the subject of the temporary restraining order, a preliminary injunction which lasted five days with an additional two days in court back in July. That is what stopped Firestone from opening for approximately 30 days, I think it was, until they put into place a mitigation plan that reduced the sound. The court was okay with that, and therefore partially lifted the order so that they could open, as long as they comply with the mitigation plan which I understand has been happening.

Chairman Aieta: Any other comments or questions from the Commission to the Attorney? So we are going to move forward?

Commissioner Bottalico: The noise mitigation situation, has this been corrected?

Attorney Chappell: The court initially granted the plaintiffs' request to keep Firestone from opening because the plaintiffs' sound experts said that it would not comply with the ordinance. They were required to submit a mitigation plan. They had an expert in sound, an engineer, come up with a plan so that they would be able to open. We went back to court on that for two days, heard testimony from Guggenheim's sound expert on the mitigation plan which the plaintiffs complained was not adequate. The court partially lifted the order so that Firestone could open, provided that they certify compliance with the plan, which they did to the court's satisfaction.

Commissioner Bottalico: So you are saying that the noise is not a problem?

Attorney Chappell: Not to my knowledge. It's not a problem, that's correct. At least in the court's eyes. There has been evidence provided to the court that Firestone has done what the court wanted in order to open and comply with the noise ordinance.

Chairman Aieta: Commissioner Sobieski said that they were trying to make everyone happy, and with a case, someone, no one is ever going to be totally happy. We are trying to make as many people happy as we can. If we could bring back the auto related uses, that bring the non-conforming into conforming and we tweak our regulations so that we have good auto regulations moving forward, then I think we have accomplished a lot. We would like to put this Firestone issue and the auto-related issue behind us, so I don't see any reason why we should not proceed with our public hearing and be cautious about how we proceed, but then we have to get the regulations back into a situation where they are usable. Anyone have any objections to that summary? Thank you very much for coming tonight. You really did shed some light on it. The Commissioners had some reservations, and it's up to us to be sure that they have the right information so they can make a good decision.

Attorney Chappell: I agree, and I'm always available to Craig. We speak often, so if there are questions, direct them to Craig, and I'll respond.

Chairman Aieta: Thank you very much.

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

John Bachand, 56 Maple Hill Avenue: I heard a lot of people talking about the kids' activity in the old Fafnir building. If you remember you approved it with some concerns about the safety for the kids and the environmental issues. The big question was whose responsibility it was. No one could nail that down, whose responsibility it was to investigate that, and so in the approval, one of the conditions was that the Planner would refer contaminated soil remediation issues to the CCHD for comment and recommendation. I just wondered if that ever happened because obviously they are open now. I was a little surprised to see that they are open and I never heard anything back, not that it was a requirement to, but I would just be curious if the Planner could address that when he gets a chance.

Also, I was researching a coupe of the agenda items for Fenn Road, Cedar Street, Myra Cohen area there, and I came across that there was a grading easement granted to the private owner, from Newington to the private owner which was the equivalent of basically ten percent of the entire National Welding property, approximately .4 acres, and I don't think it was that well understood at the time, again, this is in hindsight, and we didn't know exactly what was going on in there, we thought that there was going to be a busway, but the building was still there, everything was kind of up in the air at that time, I'm just wondering, I have

questions about that, I'm a little concerned about that. I don't think it was in our best interest, again, in hindsight, I don't think it was in our best interest, maybe at the time it seemed like the right thing to do, but with everything that seems to be dynamic, or in motion over there, with plans that are changing or coming in new, I wondered if it was a possibility to revisit that, or look again at that and see if we could potentially negotiate to get some of our rights back, because it is the equivalent to over fifty parking spaces, and with parking at such a minimum, a premium in that area, I think that's something serious.

Chairman Aieta: I don't want to get into a dialogue with you, but I feel compelled to answer you on this. Number one, this is an issue that you should bring to the Town Council, it's really a Town Council issue. They are the ones that entertained the agreement on that land. Number two, some of the issues that you are bringing up have ramifications to you, to you as a Commissioner on the Wetlands Commission. Right now there are areas there that are pending before the Wetlands Commission. You put yourself in a position of jeopardizing your position after you hear those applications, so I would be very careful. I think you are pursuing this in the wrong venue. I think it's an issue that really has to go to the Council. They are the ones that initiated it, the Mayor, the former Mayor, the former Town Manager, and Andy Brecher, Economic Development. Those are the people who were involved, and unfortunately two of the three are not there, so I think you should look in a different area. I don't think that this Commission had, our involvement was just a referral back on an 8-24 review, and we did not initiate this thing.

John Bachand: I appreciate the mention of the conflict. I certainly don't want to do that. I'm more concerned about the piece of land that we have encumbered now to the private owner.

Chairman Aieta: Bring it to the Council, I think that is the right place.

John Bachand: I was thinking that, but I thought I would bring it here first, okay, I'll do that. I read some of the minutes and everyone was concerned about the steep grade, especially yourself, and that clearly is not, just looking at it, is not a two to one grade. Also, unfortunately the discussion and the consensus was what they should have done, it never made it's way into the legal easement or on the plans.

Chairman Aieta: Any other public participation at this time?

VI. REMARKS BY COMMISSIONERS

None

VII. PUBLIC HEARING

None

VIII. APPROVAL OF MINUTES

A. Regular Meeting February 10, 2014

To be approved at the March 9, 2015 meeting.

IX. NEW BUSINESS

A. Petition 03-16: TPZ Approval (Section 3.23.1: Accessory Outside Use) for Fireworks Tent Sale at 56 Costello Road (T-Bowl Lanes.) Keystone Novelties Distributors LLC, applicant, CMB Inc., owner, Chris Cook, 201 Seymour Street, Lancaster PA contact.

Neil Shaw, Attleboro, MA: We will be putting up a 20 x 40 tent near the bowling lanes. The bowling lanes are now leased to Ashley Furniture but the owners say it's okay for us to put up a tent. Basically it would be the same as it has been the last three or four years. Fire extinguishers, and the Fire Marshal has to approve it once it is set up, he has to physically see it set up and give his okay.

Chairman Aieta: So you are putting it in the same position as it was last year, and the storage containers are basically the same as in years past. You haven't changed anything?

Neil Shaw: I have a picture.

Chairman Aieta: It looks to be in the same position. You are well aware of our requirements on temporary signs, we don't want them on the turnpike. Where did you plan to have your sign?

Neil Shaw: On the tents themselves.

Chairman Aieta: Which you have done in the past. You have done this before so you know all the requirements on the temporary signs. If you do what you did last year, you should be okay.

Craig Minor: I contacted the Fire Marshal and the Police Department about this to see if there were any problems last year, and I was told that there were none.

Commissioner Serra: I just want to state that this has been done in the past. They have been very good up there, we've had no issues with them as the Planner just said, and I see no reason why we shouldn't grant this again.

Chairman Aieta: When do you plan on starting this?

Neil Shaw: It's usually the last two weeks of June and we close July 5th.

Craig Minor: The application says from June 23rd to July 5th.

Commissioner Pane: I move that we move Petition 03-16 to Old Business.

The motion was seconded by Commissioner Sobieski.

Chairman Aieta: For the next meeting, for action?

Commissioner Pane: Correct.

Chairman Aieta: All set, thank you very much. We'll take it up at the next meeting.

Neil Shaw: Will I have to come to the meeting?

Chairman Aieta: You don't have to come. If you don't want to come from Attleboro Massachusetts, you can call the Planner the next day.

Neil Shaw: It's a half hour ride.

- B. Petition 08-16: Site Plan Approval at 712 Cedar Street (Starbucks) Fenn Road Associates LLC, owner/applicant, Attorney Mark Shipman, 433 S. Main Street Suite 319 West Hartford CT, contact.**

Postponed until March 9, 2016

- C. Petition 11-16: TPZ Approval (Section 3.23.1 Outside Use) for Food Truck at 2199 Berlin Turnpike S & N Discount Liquors. Ferida Mohammed, owner, Luis Vallejo, 26 Monte Vista Avenue, Newington CT, applicant/contact.**

Luis Vallejo: I'm a resident of Newington for several years and I'm coming here for permission for a Mexican food truck, selling tacos. We started our operation on January 1st, and we then got a letter from the owner of the liquor store saying we don't have the right permission for selling food in that location. That is why on February 16th I talked to Mike and I brought my papers. We have the Health Department's inspection on January 1st, 2016 and after ten days we had the permit from the Police Department for the people who were going to work in the truck, so we were thinking that it was okay. We came in to the zoning office and asked if we needed a permit and they told us no, and that was when we went to the Police. The liquor store owner said they had a permit for a hot dog cart, not for a food truck. Then I contacted Mike, came in and got the application for a food truck. They had a permit for six months for a hot dog cart. Based on the experience that they had before, maybe I can park my food truck in that area.

Craig Minor: It sounds like somebody in the Building Department was trying to be helpful when they told you that you didn't need zoning approval, because that person probably knew that the hot dog truck had gotten a permit but because it wasn't their department, they didn't know that the permit had expired. That is probably why you got mis-information from the Town.

Commissioner Serra: I have a few questions. Is there enough parking with this food truck and the package store?

Craig Minor: I have the sketch from the previous application, and I was thinking of getting an aerial photograph but it doesn't show more than this: it's a paved parking lot, but it's not striped so it's anyone's guess as to how much parking there is there. Has there been a problem parking in the past? Apparently not because we haven't gotten complaints. There was sufficient parking for the hot dog cart, so I would say it is the same situation.

Commissioner Serra: I think we need something more definitive on parking, especially around the holidays when package stores get busy and the lot fills up. It's not that I am against your truck, I'm not. We have to make sure it is a safe area for people pulling in and out onto the Berlin Turnpike. As you know, it's a very busy area, so I think we really need to look at that. We need more definitive information on that.

Commissioner Sobieski: I've driven by there at night. You have a flashing sign that is very distracting to traffic. It's difficult on the Turnpike as it is, but something flashing with a lot of candlelight power coming out of it will have people taking their eyes off the road, causing a problem. The sign is quite well lit up, which is more than the rest of the businesses have. I think that needs to be looked at. We don't allow flashing signs if I'm not mistaken anywhere on the Turnpike.

Luis Vallejo: When I received the e-mail from Mike, he asked me to remove, we had a sign that said "tacos" and one that said, "open", and we removed them immediately. I didn't have the regulation where they had to have signs. We wanted a sign but we didn't want to be distracting to the cars.

Commissioner Sobieski: Right, but what I'm trying to explain to you is that the volume of traffic, 41,000 cars per day there, that's a lot of vehicles going by there, and some distraction of any type, you could have a problem there. I'd like to have the Town look at that a little more closely as to the lighting at night.

Craig Minor: Did he say that he removed it?

Commissioner Sobieski: Right, he did, but I'm saying, the rest of them, the light from the truck is very bright, you have additional lights in that area. Before it was flashing back and forth and now it is just stationary. It's very bright. I'm saying, I don't want anything up there to distract traffic, because it's a safety hazard.

Commissioner Pane: Mr. Chairman, through you, I can't find this use allowed on private property. Am I missing something in our regulations? I thought that we had locations for this type of use and I don't see anywhere in our regulations where this type of use is allowed on private property.

Craig Minor: No, you're not missing anything. The TPZ has a long history of approving tent sales, fireworks sales, and rightfully so in my opinion, but going back through previous minutes after I came here to town, I couldn't find where in the Zoning Regs the Commission had the authority to do that. So I figured that there must be something in here that gives you the authority to do that. The closest thing that I found was the "outdoor sales and storage of equipment and material" regulation, so that is the section for the past couple of years that the Commission has been approving tent sales and fireworks sales. That's the section that the Commission approved the hot dog cart under. It's a little bit of a "round peg hammered into an octagonal hole", but it's what the Commission has been doing for many years, and this is the closest regulation that I could find that it came close to fitting.

Commissioner Sobieski: Mr. Planner, you are talking about something that is there for two weeks, three weeks, maybe a month, but we are now talking about something that is going to be there year 'round. That's the difference I think.

Craig Minor: You are not at all wrong. There are many important things to consider, but the first important thing to consider is the issue that Commissioner Pane brought up. Where in the regulations does the Commission have the authority to grant this? Then, after you resolve that question, then you go on to conditions and circumstances, because you might have to say no to someone. The regulations are not crystal clear but as I said, the Commission has been approving tent sales and fireworks sales for a couple of weeks, a couple of days, for a long time. You have always approved them. You have approved them with conditions in many cases, such as subject to submitting a site plan, or subject to the Fire Marshal certifying that the location is safe. In some cases having the Police Department certify that it is a safe location. All of those things are appropriate and I think we should do that in this case also. As far as whether the regulations give you the ability to say yes to an applicant, it's this section, 3.23.1, but still you use your judgment whether to approve or deny on a case by case basis.

Commissioner Serra: One other thing I wanted to mention is, the Planner had mentioned that we approved that site for a hot dog cart. Yes we did. A hot dog cart is a lot smaller than that vehicle that is up there, so that is a change to the amount of parking that is available, so we

really need to look at that, and again, the safety of vehicles coming on and off the Berlin Turnpike. We just have to make sure that this is right. There are approved areas that before I was on this Commission were designated; maybe that is where this needs to be.

Craig Minor: Let me speak to that for a second. Commissioner Pane mentioned that also. Yes, that's a difference. It's like the difference between the American and Nation League, yes, it's baseball, but it's baseball under different rules and regulations. The food trucks that are allowed on streets don't come to you. They go to the Police Department for a permit, and as long as they are on those designated stretches of road, in the road, between the curbs, they don't come to you for permission. They are pre-approved by the TPZ, they just need to get Police Department and Health Department permits. Like you said, there are five or six locations in town, but if someone wants to put a food truck, or cart, on private property, that is where we get into a gray area. That's where we are tonight. A food truck on private property, not on a Town road.

Commissioner Pane: On the locations that are pre-approved, even though they are pre-approved locations, at one time, years and years ago, they did come to us. They would tell us what spot they were taking, and they would tell us a little bit about their operation, and we would make sure that they weren't going to have garbage thrown around, and we had a few requirements possibly, but there weren't many. I think only four or five locations, and it was very rare, but they did. I'm talking years and years ago, and it was probably done informally.

Chairman Aieta: I think this comes down to, I don't want to say a test case, but almost. We wanted you to come in because this is a gray area so we thought that it had to be brought up to the public; we had to vet this and get to a point where we have a clear understanding of what we will and will not allow on private property, and whether we want food trucks on the Berlin Turnpike. If we allow this, maybe several other ones will come in. We spent many, many years trying to upgrade the Berlin Turnpike. This is not an "incidental use" to the primary use of that property. This is almost an addition to the property, an addition to the building almost, because it is a permanent thing, it's going to be there 24/7, all year long. The ones on the roadway have to be moved every night. The permits are only for a one year period at a time, so if there are problems when they go to renew, the problems can be addressed or they won't get the location in the future. This is really a matter for this Commission to determine whether they want to do something with this regulation to allow food trucks on private property, and that is why we encouraged you to come in so that we would be able to air it and discuss it and get the feeling of the Commission if this is really something that they want to pursue.

Craig Minor: Can I suggest, maybe this would make it harder, maybe make it easier, to have a public hearing on it? See how the public feels about the larger question of food trucks? Is this something that Newington wants or doesn't want? Just a suggestion.

Commissioner Pane: I don't know, maybe...

Chairman Aieta: It is up to this Commission to do planning and zoning and if we can't figure out around this table whether we want food trucks or not, on the Berlin Turnpike, I can see the expansion of these to such a point that it almost becomes a nuisance. You've got to remember, and I'm not disparaging what you do for a living, and I appreciate what you are doing, from the point of a restaurant that might be right down the street. They have a location, they pay taxes, they have all kinds of different expenses, and if we allow food trucks to just set up on private property, it's a discouragement to established restaurants and businesses on the Berlin Turnpike that have locations. I mean, it's a philosophical argument, but it's an argument that we have had in the past. I can tell you in one instance where we had a hot dog cart on Constance Leigh that I think is the area that you are now in, and a

couple of restaurants in the center of town were complaining, saying that we have an established business, we have an established location, we are paying taxes, and we're losing, not that we are losing so much, but it is unfair to have someone be able to drive up with a cart, set up shop and start doing business. It's a disadvantage to an existing business. I'm not using that as an excuse to tell you that we don't do it, but I'm just using that as one issue that has come up in the past. You have the option, there are locations in town that the police allow you to park your truck on the street. You would have to move it every night. I know that might not be what you want to do, but we're not saying that you can't be in town; but to be in town, you have to be in the locations that have been established by this Commission and the Police Department. I'll leave it up to the Commission as to whether they want to discuss this further and come to some conclusion as to how we are to proceed in the future. We have to give direction to the staff so that when someone comes in and says, I want to have a food truck on this piece of private property, they say, this is, or is not approved. We have to come to a conclusion. We can't just take this as; we have to give some guidance to the staff so that they give correct information to the public when they come in. In this instance, this gentleman was under the perception that he was following the procedures to do this, and we find ourselves here tonight.

Commissioner Serra: As far as the Planner's suggestion, I would rather not do a public hearing. Let's keep this with the Commission. Let us wrap our heads around this a little bit more and see what we feel is best, and then if we need a public hearing, we can open it up. Unfortunately the owner of the package store knew his permit had expired but did not relay that information to this gentleman, so he went in thinking everything was okay. Somebody from the Building Department or wherever gave him the wrong information. There are steps that we need to take before this goes further, to set some rules and regulations of how we are going to do this. If we start getting input from the public right now, it's just going to muddy the waters. We need to figure out the steps first.

Commissioner Sobieski: I believe we discussed having some kind of permit application with a checkoff that we were going to look at, that we had gotten some kind of form, I think it was from...

Commissioner Serra: Berlin.

Commissioner Sobieski: I liked that idea because it starts with Planning and Zoning and works its way along, so they can't jump to the Police Department or the Fire Department, and then come back to Planning and Zoning. It starts with Planning and Zoning. That is what we need to stop this type of stuff from happening again. You know, it not only applies to the Taco Truck but other issues that have come up in town. You might want to get that in motion as soon as possible.

Commissioner Pane: I agree with the Commissioner that the checkoff is an excellent idea. I think food trucks should be in the locations that are already approved, but I still think that they should come in front of us, and then follow steps after that. I don't think that our regulations allow them on private property, so I don't think we should amend our regulations for that. But if there are other locations that the applicant feels are good for a food truck, if they didn't like the five that are existing now and they found another street location that they thought was nice, they would come to us and we would get input from the Police Department to make sure that was an appropriate location, and if so, we could add that to the locations. We are providing an area for food trucks to go, a safe area. It comes to us and then it goes to the police department. I like the idea of a check-off. Thank you.

Chairman Aieta: At this point, can we move this to Old Business?

Craig Minor: Yes.

Commissioner Pane moved that Petition 11-16 be moved to Old Business for action at the next meeting. The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with six voting YEA.

Chairman Aieta: We are going to put this on the next agenda, we're going to discuss it some more, and we're also going to get some more information so that we can come to a conclusion as to whether we are going to amend our regulations to allow these, and then we are going to put this issue to bed. You have the right to use the street locations currently on the books. If you find an additional location, we would be more than happy to look at that. We're not trying to shut you down, believe me, but we have to look at the bigger picture of what this Commission has done over the last thirty or forty years on the Berlin Turnpike to upgrade that to a commercial area that is inviting, that makes the public want to come to our town. You can see the difference when you drive from Wethersfield into Newington and when you leave Newington to go into Berlin. Our section of the Berlin Turnpike, we've worked very hard to get it to where it is now. We don't want to allow an adverse use, or something that is going to overwhelm or change the character of what we have done over the last thirty or forty years.

Luis Vallejo: Thank you very much.

D. Discuss up-coming event at Vallabhdham Hindu Temple at 26 Church Street.

Chairman Aieta: Are the representatives from the temple here? Come forward please. We know that you have a very large event happening next month, in March, and we just wanted to go over it so that everybody is on the same page - how you are handling the crowds, how you are handling the parking. If you could give us an overview of what you want to do, then the Commission will have some questions for you.

Haresh Pandya: On March 26th, we are going to hold the Holi Festival with a bonfire which will be in the parking lot. No parking will be allowed. All parking will be at the John Patterson and John Wallace schools. People will be transported from the John Patterson and John Wallace schools by vans, and we will hire a policeman in order to see that no one comes into the parking lot.

Chairman Aieta: In your application, you also talked about using the Holy Spirit Church parking lot. Would you address that now?

Haresh Pandya: We are not using that site because they have an event going on until 5:30 or 6:00, maybe longer, and we don't want a problem, so John Patterson and John Wallace. Here is the John Wallace permit. John Patterson just came today. I can give you a copy. At the same time, I have a letter from the fire department.

Chairman Aieta: Can you tell us the hours of this event?

Haresh Pandya: From 6:00 to about 9:30.

Chairman Aieta: How many people do you usually get at this particular event?

Haresh Pandya: Two to three hundred, but they are in and out. They are not all there at the time. They come in for the bonfire, they pray, and then they leave. They are not staying in the same spot for long.

Chairman Aieta: I'll open this for Commissioner questions or remarks at this point.

Commissioner Serra: I know that they have their permits for Patterson and Wallace. Is there insurance involved with this? Do they have to put riders on the properties? Is the town responsible?

Craig Minor: The Chairman asked me the same question earlier this evening. I don't know, but if I was the Board of Ed I would be concerned about those things, and the Board of Ed signed off on their permit.

Commissioner Serra: Okay. My next question is, how you are going to have the shuttle service? The shuttle will be dropping people off, taking them back and forth. You are going to have a lot of people there when the shuttle pulls in. Are they going to pull into the parking lot, dropping people off?

Haresh Pandya: They will be dropping them by the front gate.

Commissioner Serra: So they are going to stop on the street and let them out?

Haresh Pandya: No. There is no parking, so they...

Craig Minor: Can you refer to the aerial photograph to show us where they are going to be dropped off?

Haresh Pandya: As you come from Newington Avenue, you are taking a right turn onto Church Street and the second property is 26 Church Street, you see a long driveway.

Craig Minor: Could you go over to the screen and point to where you are talking about?

Chairman Aieta: Why don't you come up here so the public and the people who are watching at home can see. If you could come up here?

Craig Minor: Church Street is on the bottom.

Mr. Pandya: [pointing to aerial photograph on monitor] So you enter here, it's a long driveway, there is a first parking lot and a second lot. People can be dropped here, they can then turn, and there are sidewalks so nobody is walking in the driveway.

Chairman Aieta: Can you just show us where the bonfire and the outside activities are?

Haresh Pandya: So we are staying away from the property over here. So it's much safer and we have been doing this for the last five to six years without any problems.

Chairman Aieta: Is the Fire Department on stand-by?

Mr. Pandya: No, we don't need them.

Chairman Aieta: Thank you very much. Commissioner Miner is a Lieutenant on the Fire Department in town, so he can shed some light on what they have done in the past.

Commissioner Miner: It would be at the Fire Marshal's discretion whether a stand-by would be required. We have done it both ways, having apparatus on stand by and having

apparatus on a will-call basis. So, if he is aware of it, aware of the size of it, it would be at his discretion.

Chairman Aieta: I think that he has already signed off on it, and does not require a stand-by for this event.

Commissioner Sobieski: I'm a little concerned about the turn of the bus coming in. It looks to me like there's an island that juts out there, if I'm not mistaken. Is that big enough for a bus to turn?

Mr. Pandya: It's not a bus sir, it's a seven passenger van.

Commissioner Sobieski: Seven passenger van, so there will not be anyone walking on Church Street, is that what you are telling me?

Mr. Pandya: Yes, absolutely.

Commissioner Sobieski: So you are going to have one seven passenger van.

Mr. Pandya: Not just one, several of them, sir.

Commissioner Pane: Will you have somebody at each school to make sure that people don't walk? You will have an attendant there?

Mr. Pandya: Yes, we will have attendants there so they will park in order, not as they want.

Commissioner Pane: And they will be able to tell them to wait for the next van.

Mr. Pandya: Yes, and once the parking lot is filled, we will go to the next one.

Commissioner Pane: Thank you.

Chairman Aieta: Any other comments from the Commissioners?

Commissioner Serra: My question actually has to do with the memorandum of agreement that is in the works.

Craig Minor: I think it's valid to bring that up tonight.

Commissioner Serra: I have some concerns with that. First of all, I do applaud everyone involved to try to get this agreement together. It's not the agreement itself that I have the problem with. My first question is, has this agreement been signed yet?

Craig Minor: No, not as of a couple of days ago.

Commissioner Serra: A couple of questions that I have thought of, and a couple of people have asked me, should this agreement go to the Town Council or does the Town Manager have the authority to sign this agreement without it going to the Council?

Craig Minor: If she doesn't, she won't. She knows what her duties are and where her authority extends. She will probably check with the Council majority leader to see if this is within her authority as Acting Town Manager, but if it's not, she will probably say to Attorney Doyle, I know that you might have dealt with the previous Town Manager on this, but in my opinion I do not have the authority to sign this so I'm going to refer it to the Council.

Commissioner Serra: I would like to see this go to the Council, personally. My other thought is, I don't want to see the Town get put in a situation with this agreement. This whole situation started out at a public hearing with neighbors telling us about things going on, and everybody has worked hard on this. This agreement should be an agreement between the neighbors and the Temple.

Craig Minor: But who represents the neighbors? Well, the Town does, but then the Town would be on both sides of this.

Commissioner Serra: It puts us in a tough spot.

Craig Minor: Yes, but is it better than nothing? Probably. I think everyone agrees that it is better than nothing. Is it perfect? No, but at this point in time "perfect" is not going to happen because there is history and established practices preventing a perfect solution. Is this the best solution that we could come up with at this point? Probably. Could it be better? Yes, but it will never be perfect.

Commissioner Serra: I just want something that is not going to tie the Town's hands in any way.

Craig Minor: I'm not a lawyer, but a "memorandum of understanding" is just that, it's a memorandum of understanding, it's what we think we are agreeing to, what is written down. If it was a contract, or an easement, or a legal document, then it would say that. It's stopping short of that, it's a gentleman's agreement if you will. It's less formal than an actual contract. So it's not really binding on anybody. It's just a statement of intent. It's a statement of good will, of good faith.

Commissioner Serra: And this has gone to the Town Attorney to look it over?

Craig Minor: I don't know if it has gone to the Town Attorney. The Acting Town Manager, that would be her call to make.

Chairman Aieta: You have to understand that this is an agreement between the Town and the Temple. This is not an agreement between the Temple and the TPZ. It doesn't affect our role in any way, shape, or form. We are not signing on to this memorandum of understanding between the Town and different agencies in the Town. This does not affect the TPZ Commission in any way, shape or form.

Commissioner Serra: I understand that, Chairman Aieta. When I said "our", I was referring to the Town, we are representatives of the Town, and so in this particular case I was referring to the Town.

Chairman Aieta: I'll put it on record tonight that it does not affect our ability to regulate, and to enforce our regulations, so I don't see that this affects our ability to do our job.

Craig Minor: I think this will be a tool in helping this Commission approve, for lack of a better word, future holidays that the applicant is going to bring to you down the road.

Commissioner Serra: Like I said, I like the agreement, and I'm happy that something was able to be worked out. I just would like to see it go to the Council, and let them take a look at it. This way everybody has looked at it, and we're all in agreement here. That's what I would like to see.

Chairman Aieta: You gave us an indication tonight that there would be three or four hundred, people. We were under the understanding that it was closer to 1,000.

Haresh Pandya: No, probably 500 or so.

Chairman Aieta: In excess of 500, well, there is a big difference between five hundred and two hundred people. It's double, so as the number of people increases, restrictions are going to be more stringent for the safety of the public.

Commissioner Pane: I think the representative of the Temple has stated people come, they spend a little time and then they leave, and then new people come. There is no set time where they all have to stay there, so there could be 500 but not all at one time. Is that correct?

Haresh Pandya: This holiday is (inaudible). It goes from 5:00 in the morning, with prayers, until like 8:00, so you are talking about sixteen hours.

Commissioner Pane: Your next event is on August 28th, God's Birthday celebration. Do you have a problem coming in before that too, so that we could review how things went on March 26th? Maybe some time before the August 28th event so that we can review and maybe improve it if there were any problems.

Haresh Pandya: We can stop by and if there were concerns we can solve, we have enough time, you know, May, June, and July.

Commissioner Pane: Okay, thank you.

Chairman Aieta: We want to make sure that your religious rights are protected, and you want to make sure that you have a safe operation there. We don't want to hinder you in any way, your religious freedoms, but we want to be sure that everybody is safe. So, this is like a test case so we'll be able to see, we'll work together, this Commission, we will watch a couple of events and after that, if it's going really well, we're good with it. I know that it will be good for the temple to get the feedback from us if there are any concerns that we have after this event.

Haresh Pandya: It is better to work within the dynamics. We would like to encourage your support.

Chairman Aieta: Any other Commissioner remarks? This does not require any action; it was an item on the agenda basically for the Commission and the Temple. I think we accomplished something here; we have some understanding between the Commission and the Temple and hopefully we will have a very good event and there are no problems. We will see you back here in the summer where we will review the next event.

Haresh Pandya: Okay, in the summer we should come to a town meeting?

Chairman Aieta: Same procedure that you used for this one. Like a month before, tell the Planner you want to get on the agenda, we want to see the Commission, and we will have the same discussion that we had tonight.

Haresh Pandya: I was asking about reviewing this event.

Chairman Aieta: If there are no problems, we won't bother you. We'll wait until the summer. If there is something that is drastic and has to be addressed, we will call you, bring you back

in and discuss it immediately, but if we don't see anything, we will wait until the summer. Is that a fair assessment, Commissioners?

Commission: Yes.

Chairman Aieta: Okay, thank you very much.

Haresh Pandya: Will we be receiving a permit or something?

Craig Minor: No, but I can send you an e-mail describing what happened tonight.

Haresh Pandya: Thank you very much.

E. Revisit "Interior Lot" zoning regulation.

Chairman Aieta: The next item on the agenda is the interior lot regulation item that I brought up at the last meeting. Just for some history, we have always had rear lot regulations until 2007 and when the TPZ made major revisions to the zoning regulations, they eliminated a bunch of sections for whatever reason that particular sitting Commission felt was necessary. I have reviewed the minutes of this particular action. Just to give you background, I have gotten calls from different people who said we have always had a potential rear lot and then the regulation was taken out, and we didn't have the opportunity to come in under that regulation. It's not just one or two, I've had several people who want to have rear lots in town approach me and say, it's not fair to us, so I thought it was important enough to bring forward and put it up for discussion. Hopefully we can revisit it, make some tweaks to the old regulation, bring it up to date and reinstate it. Going over the information that the Planner provided us on this issue, it isn't clear from the record why the Commission wanted to eliminate rear lots in 2007. I believe that there were a couple of applications that came in that proved to be out of the norm, something maybe a little bit difficult for the Commission to handle, and their response to that was to eliminate it from the regulations. That was their prerogative, but when you get a sliver and you go to the doctor, he takes the sliver out and he works with the injury, he doesn't cut your finger off. I thought that was a drastic way to do zoning by just arbitrarily removing things from the regulations. It was not just this one issue, it was several issues. I did have a conversation with the Fire Marshal today, who made comments back when it was taken out of the regulations, and I asked him if he precipitated the removal of it, and he said no. He was asked to comment on the regulations, if there were any problems with it. His recollection of that, and what he told me today is, it's not a standard drive up in front of the house and hook up to the hydrant and fight the fire right off the street. It takes a little more than just that. But is it insurmountable? One of the problems he mentioned that we can take care of through the regulations is access to rear lots that exist today; the access has not been maintained, the paved areas are not wide enough. He's never had an incident in the Town of Newington where he had trouble getting in to fight a fire on the rear lot. There was recently an instance where they were assisting at a fire in Berlin and they got stuck in the backyard of a rear lot because the driveway was not the proper width and build that could take the weight of a fire truck, and they got stuck. Commissioner Miner knows more about that than I do, but in talking to the Fire Marshal, he said these are items that can be addressed with each application as it comes in. We can tweak our regulations and make sure that someone has a twenty foot right of way into the rear lot. We can increase the paved area from ten feet to, he said twelve or fourteen feet plus probably crushed stone on the side so if the truck went off the paved areas they wouldn't get stuck in the mud. One of the other things that he was concerned about was the distance from a fire hydrant. I think the longest distance is 1,000 feet, they have 100 feet of five-inch rolls on the truck so the relationship of the fire hydrant to the rear lot is an important issue. If someone really wanted a rear lot and they didn't meet those requirements, they would have to provide

a hydrant on their property. This is by Special Permit, so there are ways for us to refer it to the Fire Marshal. I talked to the Planner about tweaking the regulations, and make them a little more stringent so it will cover these areas of concern of the Fire Marshal, and after the conversation with the Fire Marshal he said that he had no problem reinstating it. He would look forward, if people came in, he would give his judgment on each individual case as it came up.

Commissioner Sobieski: If we are going to be putting in a fourteen foot driveway to a rear lot as you are stating, it's going to have to handle the truck weight. I don't know what a fully loaded engine weighs, but it's more than an oil truck I will guarantee. So, my next question is, okay, how do we get it out of there? Do they back down? I don't know, I'm asking questions here.

Chairman Aieta: I'm going to refer that to Commissioner Miner who probably has experience in that.

Commissioner Miner: Rule number one, Mr. Chairman, is that we won't go into a driveway that long unless we have to. We do have 300 foot quick-connects to go off the side of the truck. We would use those first, and beyond that it's a matter of no choice to pull into the property. In my ten years I have only done it twice, and both times it was very narrow to get in, and a whole lot of help to get out.

Chairman Aieta: I think that when we look at this regulation we're going to have to take that into account. We're not going to allow driveways 1000 feet long. We're not going to allow them to be six feet in width. If people want it, the people who showed interest in being able to use this regulation are going to have to live within the confines of what we determine is safe and good for the Fire Department and the welfare of the people of the Town of Newington.

Commissioner Miner: In regards to Commissioner Sobieski's remark in regards to weight, our tandem axle aerial trucks are in excess of 65,000 pounds and in width they are in the neighborhood of close to ten feet. So it's getting up there.

Chairman Aieta: Maybe we should look at restricting the distance from the main road to the house itself. I understand from Fire Marshal Schroeder that normally they pull up in front of the house, hook up the line, and use that as a source of water. They wouldn't, if you had a 200 foot driveway that would not be a problem. It's almost what is happening on some of the single family rear lots that we have now. So we should look at those issues when we look at the regulation.

Commissioner Miner: I think the biggest thing, Mr. Chair, is that they have to give us an area to turn around. With a 2,000 foot driveway we need to have somewhere to turn around. That should be considered.

Chairman Aieta: Those are the kinds of things that we are going to have to look at if we decide that we are going to go back to allowing rear lot. I talked with the Planner, and he has some ideas as to how to strengthen it and he is also going to look at other towns and get some information as to how they handle them. You have to remember, the Town is pretty well built up, and with the original subdivisions of land in the Town of Newington, they were farmland. A lot of the lots were deep lots, so people have excess land. People in the town are aging, they might be looking for additional income, ways to supplement their income without selling their house; so there are advantages to allowing this. I'm not saying that we are going to get a glut, I would say a couple every couple of years, but we should make it available to the people. If we never had them I would say, forget it, but we had them for so many years, people have taken advantage of it, and I can tell you, some of the rear lots in the

Town of Newington are some of the best, biggest and most beautiful lots. They are not the standard raised ranch or cape. There are some massive houses on these parcels. You have to remember too, a rear lot has to have one and a half times the area of a front lot. So if you're in an R-12 zone, you would need an extra 18,000 square feet to make that viable. So it's not trying to squeeze in everybody's backyard with a house. That is not the purpose of this. Any other questions? If not, we will have the Planner do some more research, come up with some changes to what was already proposed and we will discuss it. If you decide that you want to put it back in, or if you have some really strong reservations, then we won't. It's up to you as Commissioners. I brought it forward because I did get calls on it, and I did tell the people that I would bring it up and see what the feeling of the Commission was.

Commissioner Pane: I think this is a good idea. I think when they took this out in 2007, they had a difficult case that came in front of them, and that was their method of dealing with it. I don't think it was fair to the residents that still have rear lots. I know that you touched upon this briefly, but the way property was divided up in the Town of Newington years ago, it was divided with the intent of having rear lots. We started having the rear lots in the beginning, so they divided the land up with that intent. So I think it would be a good thing to look at, and I like that it is by special permit and each case is handled separately, with the advice of the Fire Department. Thank you.

Chairman Aieta: Any other Commissioner remarks, anything else on this issue?

F. Petition 06-16: Zoning Text Amendments (All Sections.) TPZ applicant/contact.

Chairman Aieta: We have another section to go through?

Craig Minor: Yes, it was in the envelope.

Chairman Aieta: Okay, Section 7. We are going to do exactly what we did on the other sections. We've done a lot of work and it's working out very well, so we'll have the Planner go through the changes that he had proposed and the editing that he has done and give us an explanation.

Craig Minor: Okay, so the first Section 7.1 Enforcement, just tweaked the responsibilities of the Zoning Enforcement Officer. Then under 7.2.1, Application for a Zoning Permit, just added the word sign that needs to get a permit also, and just tweaking this last sentence at the bottom of the page. I added a new sentence, "The Zoning Enforcement Officer shall provide a statement of Zoning Compliance upon request, and upon payment of the fee established by the Town Manager." This is something, well, the Commission talked about this, the reason for this is, back in the day, a zoning enforcement officer could get a request from someone who was looking to buy a piece of property, either commercial or residential and a statement whether it was non-conforming or not. Just so the buyer knew that he was buying something that was a problem, and it would take maybe five, ten minutes for the ZEO to check the box saying there are no non-conformities, or yes, there are non-conformities and this is what they are, but that has evolved now where Mike D'Amato is now getting three page letters from insurance companies and banks and lenders asking for an incredible amount of history, of detailed information. On what date was it approved, what volume and page was the variance recorded, and it's taking a long time for Mike to fill these out, so what he suggested that we start doing is, for a nominal fee, as we have in the past, Mike will give to the person who is asking for it a statement of zoning compliance which contains a fair amount of information but if the individual wants more information than that, then he will direct them to where they can get that information themselves and stop being their title searcher which is kind of what Mike has been put in the position as.

It's actually, in some cases to their advantage because there have been cases where Mike has been asked to sign a letter saying that a particular piece of property has no violations. Well, there is one particular one in Newington that I won't say, because it is a sleeping dog, but there is a piece of property in Newington and it's not being used in accordance with the regulations, but it's been like that for thirty years. It's a sleeping dog, Mike is never going to approach the owner and say, you are out of compliance, but at the same time, Mike can't sign a letter saying that the property is in compliance, so Mike suggested to the Attorney, how about I give you a letter saying that there are no active violations, or something that was short of giving it a clean bill, but also something that didn't force Mike's hand to initiate some kind of enforcement action on the situation that has been going on for thirty years that no one has bothered with. It hasn't bothered anybody, so being able to give the bank, the attorney something will be helpful for the parties that are requesting this. So that is why that is there. Moving on, Surety, this is the section that talks about performance bonds. We are deleting the phrase, "as a condition of approval of a site plan" because it is not a condition of approval. It's something the applicant would have to do if they want to get a c.o. before the property, before the project is finished. That is when they would have to post the bond if they wanted to get a c.o. before it is done. It's not a condition of approval.

Paragraph C, "The Town Engineer shall estimate the cost of completion". We don't, that's not how we do it. We put the burden on the applicant to initiate the spreadsheet of what is there, and how much he thinks it is going to cost. Our staff then reviews that and corrects it, but we make the applicant initiate the project.

Paragraph D, I'm deleting passbook, certificate of deposit because those things don't exist any more. Paragraph H, I'm deleting bond surety, replacing it with performance bonds and sureties.

Then we get to Section 7.4, Design Standards, Site Plan Check List. The Commissioners might remember the last time, we went through Section 5.2 I think it is, which is the laundry list of information that needs to be on a site plan, but then for some reason, our zoning regulations say that again under Section 7.4, but now we call it a check list. There are two sets of gospels, which one of them is right? Well, I guess they are both right, but what if they conflict with each other? It's very confusing. So, what I did with 5.1 a few weeks ago is that I changed 5.1 to be consistent with 7.4 in general. That's why you don't see any changes here to 7.4 other than the waiver language. 7.4.11, again deleting the waiver provision. I'm suggesting that we delete paragraph five, high pressure sodium type fixtures are preferred, because they are not preferred any more and I'm not really sure that it is TPZ's place to tell a developer what materials to use. Another waiver.

Section 7.4.18, I'm suggesting that we delete "for subdivisions, these elevations may be required where questions arise as to surface of sanitary drainage for low-lying areas." It's a strange sentence to have in the subdivision regulations, because a subdivision applicant doesn't submit a site plan so this sentence doesn't make any sense. This sentence should be in the subdivision regulations and I will double check to make sure that it is, but it has no place in zoning.

Then Section 7.4.23, the Map Title block I'm just changing location to street address. Section 7.5 describes the different forms that applicants need to fill out and submit, and I'm deleting the requirement that they submit in triplicate because that doesn't help us really. We just need one original copy and then we make copies for your agenda packet. Having three copies is not helpful so no point in having the applicants give us three, we don't need the second and third.

Now, maps and plans; the current regulations say that the applicant shall submit five copies of the plans, which is a strange number because there are a dozen of you, the Town Engineer, might give a copy of the plans to the Fire Marshal, to the Building Inspector, but

five is no where near enough. So what I'm suggesting, and we did talk about this when we can up to this regulation, or when we revised this a few months ago, what I'm suggesting is that we have the applicant give us five full size sets of plans, 24 x 36 for the staff to work with, and to give us ten sets of half size, which are 11 x 17 which are small enough to be mailed, small enough for you to carry around with you, without it being too burdensome, and is still big enough for you to get a sense of what is going on, and we will still have the big copies if anyone wants to see a larger version, but this way you will have a set that is small enough to keep with you and to bring to meetings. Section H, just changing it to your actual title which is Town Plan and Zoning Commission, not Planning and Zoning Commission.

Section 7.6.5: On an application requiring a public hearing, where an applicant withdraws the application after a date for the public hearing has been advertised, the application may not be resubmitted for a period of one year. Okay, so what I think this is saying is, if there is a public hearing involved and the applicant, for whatever reason, reads the tea leaves and decides he needs to withdraw his application, he can't reapply for a whole year. That is kind of counter-productive because if the reason that he is withdrawing it is because he has gotten wind that it's unacceptable to the Commission and he wants to fix it, well, he's going to be penalized. He's not going to be allowed to resubmit it for a whole year. So there is no incentive for him not to go forward with a flawed, what he knows is a flawed plan. So make it easy for him to pull back and resubmit when the plans are in better shape, because right now, with the current regs, he can't do that. So I'm suggesting that we just delete the whole regulation.

Commissioner Sobieski: If he knows it is a flawed plan, why would he go forward with it?

Craig Minor: Because if he withdraws it, he has to wait a year to come back, whereas he could always fix it on the fly.

Commissioner Sobieski: That's happened in the past; we have had modifications to plans that have come in here.

Craig Minor: And they have to do it that way, which is awkward because if they withdraw, they can't come back for a year. Better for them to withdraw, work with the staff, during the week, and then submit a plan that is correct when it comes before you for the first time, correct in a manner that can get your approval without the Commission having to tell them to make changes during the application process.

Commissioner Pane: I agree with the Town Planner Mr. Chairman, I think this is unnecessary. What we used to have to do was we used to have to, the applicant would withdraw and then we would, we knew that they were coming back in so we would have to remember to say, you can withdraw without prejudice and allow them to come back sooner than a year, so it just doesn't make any sense. After all, you want the application to come back, you want to encourage development, so I think it is a good thing to pull this out.

Section 8, this is the section that deals with the ZBA, Section 8.1.3 I'm adding the two words "granting a" because the sentence begins with variance from the specific terms of these regulations, which is kind of a sentence fragment, so this seems clearer. The I'm suggesting that we add a new Section 8.1.4, to specifically designate, which is how we do it in Newington, the ZBA as the land use certifying location approval of a motor vehicle dealer or repairer. Now, this doesn't give them permission to open up a gas station or car dealership, whatever, they still have to come before you for permission. This is simply so that the person who wants to open up a gas station shall we say, and needs to have his DMV application signed off by the town as to whether the location is allowable, it's in the Industrial Zone for example, the ZBA can certify, Fenn Road, yes, that's allowable, it's in the Industrial Zone,

check off that is allowable, but the person would still have to come before you for an actual zoning approval.

The Membership and Procedures, Section 8.2.3, read very oddly which is why I deleted that line and added the word zoning, again, that's just to clarify.

Section 8.2.5, If after a permit has been authorized such permit is not lifted from the Office of the Enforcement Officer within a period of six months, this is strange, because when the ZBA grants a variance, the variance has to be recorded in the land records just like your special permit, it's not official until the applicant records the special permit in the land records, same thing with a variance. The applicant has to physically record it with the Town Clerk before it is effective, and it gets sent by Certified Mail from our office to the applicant. The applicant doesn't come back to the office the next day to pick up their approved variance. It gets mailed, so this whole sentence really doesn't make any sense, so once again we will delete it.

Commissioner Pane: Are you going to make changes to the numbering system afterwards?

Craig Minor: Yes, I gave up trying to get Word to do that. Section 9, 9.1 are the rules which I didn't make any changes to. Section 9.2 are definitions. If the Commissioners were around back then, remember that I suggested a whole bunch of changes to the definitions, but only a couple of them survived. Billboards, for example, we currently do not have a definition of billboard, so I got this definition from my green book of zoning terms.

Commissioner Pane: I have a question on this. I'm really concerned because, two reasons, I want to make sure that we get the definition correct, and I believe that people on the Berlin Turnpike are using their vehicles as billboards by moving their trucks close to the road, and plastering them with signs. These are a type of a billboard. So I want to make sure that we get this definition correct to take care of that problem. It says "a sign that directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located". I don't think that is necessarily true. It could be on the premises, so I'd like to modify that a little bit. I want to look at this closely.

Craig Minor: I agree we should do it right, and find a way to address the truck signs that you are talking about, but the essential difference between a billboard and any other kind of sign is a billboard advertises something that is somewhere else. If it's on the premises then it's a pylon sign or a wall sign. Billboards by definition are somewhere else.

Commissioner Sobieski: Mr. Planner, I'd like to be sure that we definitely exclude someone having a signed vehicle out there as Commissioner Pane said. I've seen them around town, in fact, a triangular sign on the back of a flatbed, people pulling it around, parking it in a spot for a day or two. I'd like to see those prohibited. All right?

Craig Minor: Yes.

Commissioner Sobieski: I think you definitely need to tighten the billboard definition and you might want to look at some of the existing ones, like the two or three that are on the Berlin Turnpike here in Newington by the Grantmoor.

Craig Minor: What about the existing billboards?

Commissioner Sobieski: I'm using that as an example. You might want to include in the definition that billboards are stationary. We have two or three billboards located on Route 15 northbound right after the Grantmoor, believe it or not, wooden billboards where they change the signs periodically. That's what I think of as a billboard.

Craig Minor: Right, and how does this definition not encompass whatever it is that you are speaking of?

Commissioner Sobieski: I want to have something that is solid, that stays there, not something that says it is a billboard vehicle that I can move around town.

Commissioner Miner: Maybe if we added the word "permanent"?

Commissioner Pane: No, billboards are not allowed, so they are not an allowed use.

Craig Minor: But first we have to define them, and then we say they are forbidden.

Commissioner Pane: We don't have to say they are forbidden because they are.....

Craig Minor: Right, but what I'm saying is, the first part of any definition is to define the thing, not to say whether it is allowed or not allowed, so we know what we are talking.

Commissioner Pane: But a billboard could advertise the same business that the billboard is on the property of.

Craig Minor: Then it is not a billboard.

Commissioner Pane: It could be, because there is a billboard up over the old shoe company, the service property.

Craig Minor: But why do you say it's a billboard?

Chairman Aieta: Because it is, the company that owns the structure is a billboard company.

Craig Minor: Well, just because it was constructed by a billboard company and because it looks like a billboard

Chairman Aieta: They are renting that, sometimes it is changed. They rent it for other things, but sometimes the name of it, the store that is there uses it for advertising their business, but other times there are other businesses there. There is no question that it is a billboard.

Craig Minor: Allow me fifteen more seconds of pushback, and then I'll stop because it is your town, your regs, but this is the definition of "billboard" that the world uses because that is the difference between it and any other sign. A billboard by definition, which is where you disagree with me, I realize that, by definition a billboard is a sign that is somewhere not on the premises of the product or the service that it is advertising. That is what makes it a billboard.

Chairman Aieta: Then the next time that there is a billboard and it is on a building and it is advertising that, we're going to ask you to come out and cease and desist that billboard.

Craig Minor: You're on.

Commissioner Sobieski: Mr. Planner maybe you could, as Commissioner Miner said, put in the word "permanent". That's what I was getting at.

Craig Minor: Okay, a billboard is a sign, but sign, let's skip down to "sign" and see what the definition is. A billboard is a type of sign.

Chairman Aieta: It's not a sign, it's an advertisement.

Craig Minor: It's a sign first. Okay, we don't have just a definition of "sign"; we have definitions of types of signs, but we don't have just a generic definition of "sign" which the rest of these would be subset of. Interesting.

Commissioner Pane: As for "billboard", maybe it could say "a sign that directs attention to a business, commodity, service or entertainment that may be conducted or offered at a location other than the premises on which the sign is located", so it's a little general. It could, or it may offer other locations, but I still want to tie something in here to ensure that vehicles cannot be used as a billboard.

Craig Minor: We drafted sign regulations, which are still in committee, that prohibit vehicle signs, exactly what you are talking about, but it didn't pass muster with the previous Town Attorney. Maybe we'll have better luck with the new Town Attorney.

Commissioner Miner: That is going to be extremely difficult to manage. It's one thing to be sitting there for the exclusive purpose of advertising...

Commissioner Pane: It's exactly what you just said, it's there for the exclusive purpose to advertise that business. It's not used for anything else and it's used exclusively as a billboard to advertise for that business.

Commissioner Miner: But what if I take it to the gas station once a week?

Chairman Aieta: That would be okay, because the ones that we are talking about never move at all. Most of them aren't even registered, which under our regulations, just on that fact alone they could be removed.

Commissioner Miner: That I would agree with, but more and more businesses are trying to take advantage of moving real estate. You have your piece of equipment or machine that you have going down the road and you want to take full advantage of it. The cost has become so prohibitive, it's a very inexpensive process that can be moved to any point. That is something that is going to be a difficult one to try to wrap your hands around.

Craig Minor: We have been trying for years.

Chairman Aieta: I think at some point, as a Commission we are going to have to come up with something, initiate the regulation, and start enforcing it, and then let it go to court and see what the court has to say. Then if it gets thrown out of court, then we have to go back to square one, and maybe we have to allow people to do it. That is going to change the character of the Berlin Turnpike, even more than just the couple of them that we have now. Everybody will have a truck.

Commissioner Miner: Mr. Chairman, I believe what you mentioned before was that we're trying to find a level ground to try to accommodate as many people as possible. I think there is somewhere a level playing field where, maybe it's not within thirty feet of the road, maybe it's set back further, but then the next problem that you are going to come to is, "I'm just going to the diner's parking lot to park."

Commissioner Pane: Now that truck is on a different piece of property. There is nothing wrong with the trucks having advertising signs or whatever they want to do and if they are mobile, but they are actually using these vehicles as a billboard. They are trying to overstep

the regulations, and it's only a handful of them. Most of them aren't even registered. I think we can get a handle on it.

Craig Minor: If it is unregistered we can get rid of it. Where the owner is smart he keeps the car registered, keeps the license valid, keeps the tires inflated, but still it never moves. Those are the ones that we can't touch under the current regulations, but as we said, there have been a couple of ideas that we suggested in the past that haven't been acceptable to the previous Town Attorney.

Commissioner Pane: I still think that if this Commission looks at them on an individual basis and determines that a particular one is being used as a billboard, our regulations clearly state that billboards are not allowed. I think we have enough discretion to say, "We looked at it, we feel that you are using that vehicle as a billboard, and so we have come to the conclusion that it is not allowed. Please remove it."

Chairman Aieta: I think at some point you pick a date and say, okay, these are the ones that we have identified as not having moved, and we monitor it for a month. We say, for a month, this thing hasn't moved, two months it hasn't moved. Now we determine that it is being used as a billboard and we proceed on that basis. We have done our due diligence, we've documented that this thing has not moved in two months, or three months, or whatever it is, we set a date and from that date if they don't move then we take the action of telling them to remove the trucks.

Commissioner Miner: I do have one more, there is quite a number, over the last several years of the (inaudible) trucks that are registered motor vehicles where their exclusive purpose in life is to be a billboard that is mobile.

Chairman Aieta: We're not talking about those.

Commissioner Miner: But at what point is that no longer mobile? So if I pull that into the parking lot tonight, and it is a full LED, jumbotron you know, at what point is that a violation?

Commissioner Pane: All billboards must be mobile. They must be in motion, they must be, they can't be parked.

Chairman Aieta: Those particular ones, they are made to be mobile. We're talking about the ones, I could name them almost, four or five that are on the turnpike that are habitually, have been there for years and haven't moved at all. We've had some with flat tires. We would have to tow them out of there when they did move them.

Commissioner Serra: Just for Commissioner Miner's benefit, there was actually the type of vehicle that he was talking about parked across from Yanni's at the old gas station site a year or so ago. It was there for a few days, and we did bring that to the attention of the ZEO and it was removed. They were told they had to remove it. So that is something that we can get moved, but I know exactly what you are talking about.

Commissioner Miner: And these companies do target the Berlin Turnpike during peak rush hour because there are forty thousand plus vehicles daily that travel it.

Chairman Aieta: And they are driving up and down the turnpike.

Commissioner Miner: No, they are pulling in and parking. You will see them on private property. It's very common to see them parked.

Chairman Aieta: If they come and park for a couple of hours, by the time that we notice them they are gone, so those are not the ones that we're talking about. We're talking about the ones that are there 24/7, 365 days a year.

Commissioner Sobieski: Mr. Planner, have you looked to see how some of the surrounding towns handle this?

Craig Minor: Yes. Ninety-nine percent of them will say, it's a loophole, and they can't do anything about it. I have found a couple of towns that do require permits for them and regulate them that way. Those regs probably have never been challenged in court. Most towns realize that there is next to nothing you can do about it.

Commissioner Sobieski: I just don't want to see the Berlin Turnpike turned into Route 6 in Bristol, that's what I'm saying.

Craig Minor: I agree 100% with what everyone is saying, but that's why they are so prevalent around the state – because of loopholes in state laws. I came up with two suggestions: the first was that we have a new rule in our parking regulations for the Berlin Turnpike, that the row of parking closest to the street be reserved for customers only. That would force the pickup truck with the big sign to be away from the street, far enough maybe that the owner is no longer going to bother doing it. It's not a total solution but at least it would get rid of the ones that are parked right on the Berlin Turnpike. We started to talk about that but it got bogged down with some other issues and never got anywhere, but I still think that had some promise as a partial solution.

Chairman Aieta: When we are finished going through these regulations we're going to tackle the auto regulations, and then we're going to tackle the sign regulations. We'll get through it in the next two or three months. We will have a sign regulation that you can enforce. Commissioner Camillo, did you have some information on some towns in Maine or something?

Commissioner Camillo: It was in Massachusetts. What they did was for safety reasons, the signs can only cover a percentage of the window, so law enforcement, fire, emergency can see inside and know if there was something going on, because right now they cover all of the glass, and you can't see inside.

Chairman Aieta: Why don't you get that, and get it to the Planner so that he can get it to the Commission so we can take a look at that, because I thought it was interesting. Trust me, we are going to get through the sign regulations, and we are going to do it in a timely fashion. It's been kicking around for much too long.

Craig Minor: Cedar Mountain Ridgeline, I just clarified the definition of the Cedar Mountain Ridgeline setback area to make it more user friendly. Page 20, re-wording of lot frontage to be clearer, that's all. Lot line is a new definition, we didn't have a definition of lot line in the regulations even though that phrase appears fairly often, so I thought it was important to add the definition of lot line.

Chairman Aieta: Structures, on page 23?

Craig Minor: We had a long discussion on "structures", and again, I got this from my dictionary of zoning terms published by Rutgers which back in the day was the source of state of the art zoning regulations and definitions. So this is the definition of structure that I recommend. The second sentence, this includes gas or liquid storage tanks, that's not in the definition but many towns have added the second sentence which is currently in our

definition, so I suggest that we keep it to make it clear to people that tanks are structures for the purposes of zoning regulations.

Chairman Aieta: Page 24, we eliminated, made the change to the variance, if you could explain that?

Craig Minor: The existing definition is not a definition at all, it talks about how variances are granted, and what it does and doesn't do, but it's not a definition. So I'm deleting it and inserting an actual definition which is permission to depart from the literal requirements of the zoning regulations. That is what a variance is. Adult Oriented Establishment I didn't touch, it is so old, if you did anything, it would have to be pretty comprehensive. The definition is so bad, they talk about books and video cassettes, and things like that.

Commissioner Serra: At some point if there is a change, or something that we need to add into this, not that we have a lot of these establishments left, but it's a gray area the way that it is described in here, and that is viewing booths. I know one of the establishments recently was considering coming to us to put them in. They have since changed their mind but the way that the definition reads it's a very gray area.

Craig Minor: Where is that?

Commissioner Serra: I'm going from memory on this, I actually didn't even look at this, so if you will give me a minute, and we can come back to it, I'll look for it. They're not mentioned specifically in here, that's why I'm bringing it up. It's.....

Chairman Aieta: That's good Bob, if it is not mentioned in here then it's not allowed.

Commissioner Serra: I meant that type of viewing is not mentioned.

Craig Minor: Oh, booth, there it is, the fourth line down. Provide booths, cubicles, rooms, studios, compartments, or stalls separate from the common area for the purpose of viewing adult oriented motion pictures.

Chairman Aieta: That's the definition now, right and you are saying that they are not allowed?

Craig Minor: No, they are allowed. I think by law we have to allow them somewhere in town., but I think they are allowed in the Industrial Zone, by law, First Amendment and all that, we have to allow them somewhere.

Chairman Aieta: And they are all by special exception.

Commissioner Pane: And they have to be 1000 feet away from schools, churches.....

Chairman Aieta: Now it's coming back to me, I think if you apply the 1000 foot rule to any industrial piece that is left, it probably is determined that there is no location in the Town of Newington that you could have.

Craig Minor: Probably not, I would hope not, because then a judge would say, who do you think you are kidding, you are not really leaving anywhere in town where someone could have one.

Chairman Aieta: When we had this regulation there might have been, but at this point in time, there could have been, but I don't think that there is one now in town.

Craig Minor: We would have to spend a lot of time bringing this up to date, let's just leave it alone.

Chairman Aieta: We are through the whole thing.

Craig Minor: That's it.

Chairman Aieta: So what do we have next?

Craig Minor: That's it.

Chairman Aieta: That's the whole thing. Okay, let's have a quick discussion on how we are going to proceed with this, because I don't want this sitting for too much longer. Any Commissioner remarks on how you want to proceed?

Commissioner Pane: Is there anything else that you want to add to this of the other sections, so that when we pass this, it's all one comprehensive.....

Chairman Aieta: Well, we are going to pass these changes, and then we are going to take up individually the sign and the auto. The sign will be initiated by the Commission, so basically the sign regulation as it sits today will be left here as unchanged. Then we will take it up as a separate item. We should move on at least these, bring them to a public hearing.

Craig Minor: Now just a logistic question. Do you want to bring the whole thing to one public hearing? How do you want to handle it?

Chairman Aieta: Now when we went through here there were some items that you had to go back and check, right?

Craig Minor: Yes, I believe these were all the changes that we had to make.

Chairman Aieta: I know that we said we will revisit this, on a couple of thing. Why don't you take, we'll take one last look through the whole thing to see if there is anything that we questioned and then we will discuss those, and I think we can start talking about putting this to a public hearing, and I, give us some guidance on this Mr. Planner as to what you think, do we do all of it all at once, give us some ideas of what you think we should do. What are your ideas?

Craig Minor: I think the system that we have been using the past couple of months, Sections, 1 through 4 and then 5 through 7, maybe what I'll do, there are some sections that are totally uncontroversial that are very lengthy, and then there are some sections, well controversial is the wrong word, but are worthy of discussion that are only a couple of pages. I think it's a crap shoot either way. So just make your best guess of what a manageable amount is, and go to a public hearing with that.

Commissioner Pane: I think we should bring the whole regulation to a public hearing, we take plenty of time to explain all of the changes to the public, have several public hearings on it, so that it is thorough, and the only thing I would do different than what they did back in 2007 is, they made one motion to approve everything and so if somebody had a problem with one of the items, they couldn't vote it down or not because it was all grouped together. I would change that aspect of it.

Chairman Aieta: We could vote on a section at a time. I think that is probably a better way. That's what happened in 2007 before we had these major overhauls to the regulations where they took out a lot of stuff that the Commissioners didn't have an opportunity to say, well, you know, maybe we shouldn't do that, they threw it out there and said, you have to vote on this whole package. So they voted on the whole package and some of them had problems with some of the removal of things that were in there, some of the changes that they made. They couldn't vote it down because they would be voting down the whole thing, so we're not going to get into that. We're going to have each section at a time and vote on it. If there are problems and we have to vote it down and rework it, then that is what we will do.

Commissioner Serra: At the meetings where we are going to go through these sections, the public hearing portions, I think maybe we should start at 6:00 o'clock. Some of this could be lengthy.

Chairman Aieta: Well, I think we could break the public hearing into sections.

Craig Minor: Give ourselves no more than one hour or something.

Chairman Aieta: We want to have a public hearing, but limit our time to what we can handle in an hour.

Commissioner Serra: I'm just thinking, if we have a heavy agenda or whatever else is going on, we may need some extra time. Even a half hour earlier might help.

Chairman Aieta: We'll consider that, see how we progress when we start putting this together. That's a good idea. It would be the first thing on the agenda as a public hearing.

Craig Minor: I think to be fair to the public, we would have to say in the agenda that we are going to be discussing Sections one through four. And we are not going to go beyond that, so someone who looks at the agenda says, well, I'm concerned with Section 5, so I won't come, I'll come next week.

Chairman Aieta: We can handle this. We may have to have four public hearings, but we'll get through it, and we'll get this part of it done and then we can decide on the other couple of things. Anything else on that, any additional remarks?

X. OLD BUSINESS

A. Petition 04-16: Sec. 8-24 Referral of Proposed Sewer Easement at 90 Welles Drive North. Newington Town Council, applicant.

Craig Minor: I looked at the minutes after the last meeting to identify all of the comments and recommendations that the Commissioners had. I then circulated a draft of that a week or so ago, got some feedback, made some more changes to it, and that is what is in front of you tonight. You can certainly still make changes to it. As you can see, I followed the recommendations. My first draft contained conditions, but I changed them to "recommendations" because "conditions" would tie the Town Council's hands. I don't think the Commission meant that they should be iron clad conditions.

Chairman Aieta: You have to remember, the referral was specific and I think we have a duty if we see other things that we want to bring to their attention, we have a duty to not just keep our mouth shut and not bring it to them, so the other things are basically, we looked at it, the easement, we have no problem, but maybe you should look at these other things that we

found, and I'm sure they are already aware of some of them, but that reinforces them to be able to talk about these other issues that are there. So, we aren't telling them, hey, these are conditions for the variance because they are not. The variance is one aspect, and these other items are things that we found as we looked through the whole issue. Anyone have any questions on this?

Commissioner Pane: I have one modification on number 4. I'd like to open it up, right now it states that the TPZ strongly recommends the Town Council deliberate carefully the issue of night-time construction. This project is scheduled for summer months when many residents have their windows open at night. Any work that can be done during the day, should be done during the day. I had one addition; The TPZ strongly recommends the Town Council deliberate carefully the issue of night-time construction. Excessive night work can be detrimental to the public health of residents, and then proceed with the rest of it. Those are my thoughts.

Chairman Aieta: Where would you propose to put that in?

Commissioner Pane: It was right after construction.....

Chairman Aieta: Item five?

Commissioner Pane: Four. I can read that whole thing to you one more time if you would like. "The TPZ strongly recommends the Town Council deliberate carefully the issue of night time construction. Excessive night work can be detrimental to the public health of residents. This project is scheduled for summer months when many residents have their windows open at night. Any work that can be done during the day, should be done during the day."

Chairman Aieta: Everybody understand what he's proposing to add there? It's just a clarification that the Commission feels strongly about the night work.

Commissioner Pane: And the reason Mr. Chairman was, one of our regulations, 1.11 was we're supposed to look at the public health of the residents and that's what I thought. I mean, a little bit of night work I can understand but maybe the Planner can explain to us how extensive it is.

Craig Minor: No.

Commissioner Pane: Okay, sorry I asked. From what I understand it's, it could be over a month of night work and that is excessive.

Chairman Aieta: That could be too much. The night work I believe would be starting in August. So, it could be August, September, and when you say the health, what you are saying is basically people's sleep would be disrupted for a two month period of time. School would be starting, it is something that the Council has to wrestle with, and we're just giving them a little more ammunition or our thoughts on that issue. Commissioner Sobieski, does this take into consideration your concerns about the earth.....

Commissioner Sobieski: Yes, Item one does that I believe. I also have concerns about the condition of Alumni Road both before and after. I looked on the web site for the MDC and they said they were going to re-surface the roads. It didn't say anything specifically about Alumni Road. Alumni Road I'm concerned about because the base may not be able to handle the additional traffic, so that was my concern there and I still would like to get something, maybe the town council is going to get this, as to how much sewer work or reconstruction can be done during the day by shifting traffic around, such as they did on New

Park Avenue in West Hartford. You are talking about a 52 foot roadway there, you could probably open that up and keep one lane of traffic in each direction with the main trunk down, and put the laterals in at a later date or so. I think Commissioner Pane has a valid point that people are going to be losing sleep over this and it's going to be very aggravating for them.

Chairman Aieta: Once this project is awarded to a contractor and they decide, they come up with a site for staging they are going to be required to come back to this.....

Craig Minor: No.

Chairman Aieta: No, okay, how do we get them back here?

Commissioner Pane: If they are going to use town property, for something then that would require an 8-24. They are using town land for use, I think that 8-24 might cover that.

Craig Minor: It might.

Commissioner Sobieski: The only exception is that if it is on private property.

Commissioner Pane: Correct.

Chairman Aieta: I'm not talking about private.....

Commissioner Sobieski: For a staging area I'm talking about.

Chairman Aieta: I'm more concerned about them coming to the town and getting town property for a staging area. We would want the Council to refer that back to this Commission, we would need a site plan, we could put some conditions on the use of the property, how we wanted it remediated after they use it, how we want it back to the conditions, the removal of top soil, we want to know, we want no misunderstanding of a record of what the town expects to happen after this piece is brought back to the town.

Commissioner Sobieski: Item two says if the staging area is on town owned property, the Town Council should consider directing MDC to have the contractor refer the proposed location to the TPZ for review and comment.

Chairman Aieta: So that would come under the 8-24.

Commissioner Pane: I think number two is fine.

Commissioner Bottalico: On paragraph three, I'm a little confused on that where it says, prohibit the contractor from removing any topsoil from town owned property. Are you saying that if they had a staging area and there is grass there, they can't touch it? Is that what that is saying?

Commissioner Sobieski: No, I believe what they are referring to is that they can remove the grass, stockpile the material on the site, not to be trucked off.

Commissioner Bottalico: Shouldn't we say something about on the site?

Commissioner Sobieski: I believe that is what it says in here, maybe I'm wrong, maybe I missed that one, but it said not to be removed from the site anywhere.

Commissioner Bottalico: I think from the site should be added on there.

Craig Minor: Number three? Prohibit the contractor from removing any topsoil from the site?

Commissioner Bottalico: Yes.

Chairman Aieta: Any other Commissioner comments, remarks, anything to add? We will go with this draft that is going to become the actual motion.

Commissioner Pane moved to recommend approval, with recommendations, of the Proposed Sewer Easement for MDC at 90 Welles Drive North.

RECOMMENDATIONS:

1. The Town Council should consider directing MDC to prohibit the contractor from removing any topsoil from the sewer easement area. This would be verified by core sampling done at MDC expense before and after the construction is complete, to be reviewed by the Town Engineer.
2. If the staging area is proposed to be on Town owned property, the Town Council should consider directing MDC to have the contractor refer the proposed location to the TPZ for review and comment.
3. If the staging area is on Town owned property, the Town Council should consider directing MDC to prohibit the contractor from removing any topsoil from the site.
4. The TPZ strongly recommends the Town Council deliberate carefully the issue of night time construction. Excessive night work can be detrimental to the public health of residents. This project is scheduled for summer months when many residents have their windows open at night. Any work that can be done during the day should be done during the day.
5. The Town Council should consider directing MDC to ask the owner of the property on the corner of Willard and Cedar Street to reconsider his denial of a construction easement. That denial will result in a severe inconvenience to many motorists on Willard Avenue and Willard Avenue residents because it will result in night time construction.
6. If Alumni Road will be opened for traffic between Willard Avenue and Cedar Street during limited hours during the construction, those hours should be posed on a sign.
7. The Town Council should consider documenting the condition of Alumni Road prior to construction, and if the diversion of traffic causes excessive damage to Alumni Road, hold MDC financially responsible. Documentation would be done by the Town Engineer and the Highway Superintendent along with a representative from MDC. After the project is complete, this same group should inspect Alumni Road and determine the extent of any damage due to re-routed traffic. The road should then be resurfaced or repaired as necessary at MDC expense.

The motion was seconded by Commissioner Sobieski. The motion was approved with six voting YES.

XI. PETITIONS FOR PUBLIC HEARING SCHEDULING

- A. Petition 09-16: Special Exception (Section 3.2.8: Charitable and Civic Event) for the annual "Farmers Market" at the Municipal Parking Lot. Town of Newington, owner, Val Ginn, 56 Farmingdale Road, Wethersfield CT, applicant/contact.**

Chairman Aieta: This was part of your package, does anyone have any questions for the Planner?

- B. Petition 12-16: Special Exception (Section 3.2.8: Charitable and Civic Event) for the Charter Oak Firebirds; Classic Car event at 3120 Berlin Turnpike (Panera Bread.) Charter Oak Firebirds, applicant; Newington VF LLC, owner John Lyon, 174 Coe Avenue, East Haven CT, contact.**

Chairman Aieta: Any questions on this? Comments? Let's schedule it for the next meeting.

XII. TOWN PLANNER REPORT**A. Town Planner Report for February 24, 2016**

Craig Minor: The first item is "Zoning Enforcement Issues Raised at Previous TPZ meetings".

1. Vallabhdham Temple: Congregation President Roger DeSai will be at the meeting, although actually he wasn't, he sent a replacement, to discuss the upcoming holiday of Holi. A copy of the list of 2016 religious events is attached, as requested at the last TPZ meeting. I reminded Attorney Paul Doyle on February 11, 2016 that TPZ is looking to see the final "Memorandum of Understanding." He said it is still being reviewed by the clients. Attached is a copy of the draft, as requested at the last TPZ meeting. I contacted Attorney Doyle again a couple of days ago, and it is still being reviewed by his clients.

2. Town Center Streetscape Phase VI: Since is an update on the project. Since I wrote this memo the plan has been submitted to the Town Council and they did approve it at the last meeting, and as I say here in my report, once the Council approves it, an 8-24 referral to TPZ will be in order. So, I had better get going on that. It will be presented to the Council, the Council will then refer it to you for your approval, hopefully your approval.

Chairman Aieta: I know that some of the Commissioners had some concerns about how they were going to proceed with the project as far as the side of the street. One of the comments that I heard, and we'll discuss it under the 8-24, but are we were doing improvements to unimproved property that could possibly come in for development? We would end up digging up the east side of Constance Leigh is not developed, so whatever we put in for trees and sidewalks and landscaping and light poles could be disrupted when the parcel becomes developed. That should be a consideration when they consider that.

Craig Minor: That's a good point. When we started working on this is it came down to three different scenarios. One scenario was that we take our \$470,000 and spend it over the entire length of Constance Leigh Drive, but with fewer trees, shrubs, plantings, a lesser quality sidewalk, etc. What the committee ended up recommending to the Council, and the Council agreed, was to put all our eggs in half the basket so to speak - full amenities, and by that I mean, sidewalk, brick style type sidewalk similar to Market Square, ornamental lights, street trees, maybe some benches even, on both sides. Yes, we are doing improvements to the east side, but entirely within the right of way. We're not going on private property, so nothing

that we do today would necessarily be disturbed by a developer who eventually develops the Hartford Health Care property.

Chairman Aieta: There might be curb cuts going into that property. I don't know how the Commission would look at that. We have looked before at having no curb cuts on Constance Leigh, so we might look at one curb cut and then interior circulation for them.

Craig Minor: You mean design it now with a curb cut?

Chairman Aieta: No, just be aware at some point in time that they could be digging up what the Town put in.

Craig Minor: Yes, but it wouldn't be us, it would be the property owner/applicant, and obviously this Commission would certainly require that the applicant, when that day comes, to make all of his improvements consistent with what we have done. Where he punches through for his curb cut, he will need to restore it to be attractive, to work with our investment.

Commissioner Sobieski: It wouldn't be very cost effective Mr. Planner to put in granite curbing on that side and have somebody rip it up. If you think that that might be developed, you might want to look at a bituminous roll curbing at that side, which is easier to cut through. I mean, if you are going to spend a lot of money on granite like you have in the center of town, that's big bucks. Put that in, it's usually set in with concrete, so you are talking about ripping that section out again.

Craig Minor: I think what we are going to do is take the existing granite curb and just lifting it up, leveling it off, and then putting a sub-base to keep it level, rather than actual new granite curb I believe, but your point is well taken. We certainly don't want to make any major investment that is going to get ripped up in March.

Commissioner Sobieski: Granite curbing is very expensive, and once you start messing with it, you are going to have a problem.

Commissioner Serra: Just some food for thought down the road, when this starts happening. Constance Leigh is one of the areas that is approved for the food vehicles, food trucks, with construction, with that project going on, we may want to consider eliminating that area.

Chairman Aieta: At the time that this becomes an actual project I would recommend that we pull that as a location. We're not going to have a food truck in there in the middle of construction, and maybe after it is done we wouldn't want to see a food truck there on our newly constructed.....

Commissioner Serra: And that is why I am bringing it up now, just so we are thinking of it as this project moves forward.

Craig Minor: Actually we can talk about it after the 8-24 because that is exactly the kind of recommendation that should be in the 8-24. I'll make a note of that.

Chairman Aieta: Maybe we should take the initiative for us to come up with some other locations for the food trucks so that we are not down to one location for a public food truck location. Maybe we should look and say, I know that we have one on Stamm Road, we have one on Holmes Road, we have this one here on Constance Leigh, that's three, I'm not sure.....

Commissioner Miner: Pascone Place

Chairman Aieta: Pascone Place, that's four, where's the other one? North Mountain Road, okay, so if we eliminate this one maybe we should come up with another location, make another location ourselves.

Commissioner Serra: The other reason I'm bringing this up, with the applicant we had tonight, he is at Constance Leigh and if he starts to develop a following there and all of a sudden we have to uproot him again, so.....

Chairman Aieta: So this is something maybe the Town Planner could talk to him individually and tell him that maybe he should scout around and come up with a location.....

Commissioner Serra: I just want to be fair with him also.

Chairman Aieta: Yes, I don't want him to get in there, establish himself and then six months later we tell him to get out. That wouldn't be fair, we've already taken the one location that he got through bad advice, now we're telling him to go to a public place, he goes there and now we're telling him he can't go there. Let's see if we can work with him. Will you talk to him Mr. Planner?

Craig Minor: Yes, sure.

3. Food Truck Approval Process: "At the TPZ meeting of February 10th, the Commission discussed the need for better coordination by the various agencies that are involved in the approval of food vendors (TPZ, Police and Health), possibly by revising the vendor approval process. As of this writing I'm still gathering information on this and will address it at the Commission meeting of February 24th, 2016." Well, I haven't done that additional research. That was an optimistic prediction on my part when I wrote this memo back on the 9th. I'm still gathering information for you folks on that idea.

Chairman Aieta: Okay, you do your work and come back to us with what you think. We want to initiate this and get this thing squared away. We are going to get the food truck, that whole process streamlined and so everybody knows what they can and can't do. We don't need repeats of this where people come in and we jerk them around all over town, it's not good for them, it's not good for us. The Planner will proceed with this and will bring it back to us to get it all straightened out.

Craig Minor: That's it, that's all I have.

XIII. COMMUNICATIONS

None

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

John Bachand, 56 Maple Hill Avenue: I sit here and listen to all your discussions and I make my notes and I hope that you don't mind me addressing the thing that you talked about. The first one was, and I know that it is rehashing what you have already discussed, so it's probably a little frustrating, but I just wanted to mention, that Memorandum of Understanding, I was critical of that in the beginning, and I still think it all seems like it is an endorsement by the Town and kind of defends the Church in a way, especially having our Town Manager sign it. I absolutely agree with whoever mentioned that the Town Council should be making that decision. Just because the Attorney has addressed it to the Town Manger, I don't think she

should be signing on to that without Town Council approval. The rear lot consideration, well, I think that just demonstrates how dynamic the regs are, they are not necessarily written in stone. Just a few years ago it was very aggressively sought after to eliminate with testimony, like you said, from the Fire Marshal and everything, so I hope the same consideration and flexibility could be brought forward when we have that public hearing for the text amendments and maybe some things, backyard chickens, but people have been talking about that, so I probably will bring it up. I don't know.....

Chairman Aieta: Not a problem John, you just need five acres of land and you can have as many farm animals as you want.

John Bachand: Then when we talk about the private stable, you only need one acre plus the zone, but there is no where that that would apply to in the entire town. I sent the Town Planner a pretty detailed letter on that, but as far as the public hearing goes on the text amendments, I hope the agenda will actually have those, the text amendments with the actual wording in there so people will know, so they just don't see the notice, oh, we're going to discuss these sections, but have no clue what the sections actually contain, so I hope that the actual wording is in there. I hope that there is enough time, I think somebody has already recommended that there is several of those meetings, so, that the public can make a recommendation and then you could actually have some time to consider it because along those lines, discussing with the Planner, and one of the changes I would like to see, there is a \$500.00 fee for bringing a text amendment forward, so I think since this is open to the public a few things could come out that wouldn't require a fee, and I think this is an opportunity for that to occur. As far as the MDC, the night work is only for the intersection of Cedar and Willard, that's the only time that the night work will be done. I thought it was only a month, but I see on their schedule they say September and August and that could be made shorter, considerably shorter I think even down to two weeks if they did get that easement through the yard of 711 Willard but the reason that it has to be done at night is both roads. You are not just blocking Cedar Street, now you are blocking Cedar and Willard so the entire intersection would be pretty much dead. Then the streetscape thing, I agree with you, we should have left the east side alone in my opinion. I think it should have just gone down the west side and if you plant trees now and don't do the next ones for two years, you're going to have different growth of trees and it would be a little obvious, there is no sidewalk on that side of the street now, and now you are going to have a sidewalk basically that goes to nowhere. Just wanted to throw that out there. I don't know what stage you are at. The last thing, I wish the Planner could update us, if he could, on that Health Department thing that I brought up before on the petition 15-15, a special exception for recreational use at 475 Willard. Thank you.

Gail Budrejko, 21 Isabelle Terr: Food trucks, we were looking at this because of the Streetscape project and we got information from Chief of Police Clark. The last time I believe that these locations were approved was May 8, 1992. So the Town has changed quite a bit, and actually there are seven locations: Holmes Road, Day Street, North Mountain Road, Constance Leigh, Brookdale Avenue cul-de-sac, Stamm Road and Pascone Place. I'm sure the look of the town was quite different then, so it might be a good time to look at these locations, and also the current stipulation. Councilor Anest and I were surprised that apparently trucks can park anywhere on the street. It's not limited to east side, west side, north side, south side, so the regulations really are not that restrictive or directive; the only prohibition being that it doesn't obstruct pedestrian or vehicle traffic. So I think at this point, given the situation that is coming up, it is time to review those regulations.

Chairman Aieta: With the addition of the changes that Commissioner Serra brought forward, the same conditions that Berlin uses, we would be able to determine exactly where a truck is going to be, we would determine how they would handle their trash, the hours of operation, and we would have complete control over this. We would basically tell them what side of the

street we wanted them on, but the points are well taken. I didn't know that we had seven locations, I thought we had only five. So there are other areas that the food truck on Constance Leigh could move to. We're going to pursue it as soon as the Planner can put this together. We'll have to review from the TPZ and help from the Health Department and the final thing we will go to the Police Department.

Craig Minor: I have the map that Ms. Budrejko was referring to [pointing to map on the monitor]. So there is this little stretch here on North Mountain Road where you can have a food truck, a stretch of Day Street, I think the stretch of Fenn Road you eliminated actually, and...

Chairman Aieta: The one in the center there, do you know what that is?

Craig Minor: That's Constance Leigh. This is Garfield, this is Stamm Road, here's Pascone, oh, here's the narrative, Holmes Road, Day Street, North Mountain, Constance Leigh, Brookdale, Stamm Road, Pascone. Pane Road was eliminated as was Fenn Road. It's probably due for re-visiting.

XV. REMARKS BY COMMISSIONERS

Commissioner Pane: Just a comment on the Memorandum that the Acting Town Manager has to sign. I'm sure that the Acting Town Manager is going to show this to the Council and bring it to their attention before she signs it, I would imagine. I can't imagine her not doing that so I don't think we have a problem there. Your comments on the agenda for the regulation change, those are excellent comments. We will make sure that we have details on there so the public knows what is going on. As for 475 Willard Avenue, it is my understanding that there were no contaminants inside the building, so any contaminant on the property was on the land and it was away from the building.

Chairman Aieta: And it was being remediated.

Commissioner Pane: Yes, it is in the process of being remediated, so that is why the Commission went forward with that, so I don't have any problem there. That's it, thank you.

XVI. CLOSING REMARKS BY THE CHAIRMAN

None

XVII. ADJOURN

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Serra. The meeting was adjourned at 9:47 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary