

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

March 26, 2014

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

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Carol Anest
Commissioner Michael Camillo
Chairman Cathleen Hall
Commissioner Kenneth Leggo
Commissioner Robert Serra Sr.
Commissioner Stanley Sobieski

Commissioners Absent

Staff Present

Craig Minor, Town Planner

II. APPROVAL OF AGENDA

Craig Minor: I recommend deleting Item III d Church at 37 Ann Street, the applicants have asked that it be postponed to give them some time to work with the landlord on the lease issues. Item VII b Fireworks at 56 Costello Road, the applicant is coming up from Pennsylvania, so, I think he had some logistic issues, so he asked that it be delayed for two weeks, which wouldn't be a problem since it is for the Fourth of July, and Item VIc Performance Bond at Harvest Ridge, I have been working with the developer on some different bonding options and we hit upon a third possibility that we hadn't discussed before, and we started talking about it this morning which was not enough time to get it to you, so that is off the agenda also.

Chairman Hall: Entertain a motion to accept the changes.

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

III. PUBLIC HEARINGS

A. Petition 47-13: Zoning Text Amendment (New Section 6.15: Medical Marijuana) Town Plan and Zoning Commission, applicant, Continued from March 12, 2014.

Craig Minor: All right, we've been keeping the hearing open to give the Town Attorney the opportunity to review the draft regulations. He has done that. He and I sat down the other day and went through them. He did have a number of changes, but they are all pretty much of a technical nature. For example, where in the zoning regulations I had the phrase, public

act 12-155, he suggested that since it is now an actual statute, let's reference the statute, which is Connecticut General Statute Section 21A-408, as they may be amended, and that appears several places throughout the regulation. The one thing that he suggested that we change, it's not big, but it is something, under signage. The original draft which I proposed reads, or read, no graphics of any kind will be allowed and the text will be limited to the street address of the facility. The Town Attorney pointed out that we really have limited powers over what we can allow a sign to contain, first amendment issues. We can regulate the size, trying to regulate what the sign actually contains is a little bit dicey, so he suggested that we change the wording slightly to, exterior signage shall be restricted to a single sign, no larger than 16 inches by 18 inches, containing the legal name of the entity, and the street address of the facility. Then it goes on to say, Section 6.2.3 shall not apply, that is the regular sign regulation section to make it clear that the only sign that they are allowed is the sign that's described here, and that's really the only substantive change that the Town Attorney recommended.

Chairman Hall: Didn't he also add C under 6.16.7. C?

Craig Minor: Well, that was something that the Commission talked about last month, I just hadn't gotten around to putting it into the regulations.

Chairman Hall: All right.

Craig Minor: That's all I have.

Chairman Hall: Commissioner comments?

Commissioner Aieta: I'm concerned about the, you know my feelings about the distance from a residence, I think this, if you want to limit the production to 100 feet from a residence zone, I think you are doing a disservice to the neighborhoods in the Town of Newington. There's, from looking at the map, there's areas on Fenn Road where you potentially could have this thing right across the street from a house. Number one. Number two, we talked about and it was brought up by Mike that the size of the building for production was to be a minimum of 25,000 square feet. That's not even in here. Also, the hours of operation for this facility, this thing is going to operate twenty-four hours a day,

Craig Minor: Production.

Commissioner Aieta: Production. It's a long way from the first time we met and we discussed this, I mean, we deteriorated this regulation to the point where I can't vote for it.

Chairman Hall: Any other comments before we go to the public? At this time, is there anyone from the public wishing to speak in favor of this petition? Anyone in the audience wishing to speak against this petition? Is there anyone wishing to speak? Seeing none, one more meeting of this topic with no public input. Have you gotten any communications from anyone in writing, e-mails, or anything?

Craig Minor: Nothing since several months ago was when we had something new.

Chairman Hall: Anybody from the Commission have any kind of written, or even somebody stopping you on the street, and talking to you about it.

Commissioner Anest: You bring it up and people are just not interested.

Chairman Hall: Yet when we pass this, they'll.....how did that happen?

Commissioner Anest: Absolutely.

Commissioner Aieta: I don't think people know that this thing could be right across the street from their house. We're saying that it is in an Industrial Zone, but you look at that map on Fenn road, there's areas that are almost abutting properties. When you put one in, you'll see how fast they come in.

Chairman Hall: Well, that's what I mean.

Commissioner Leggo: I have a question on the production. I mean, that seems to be what we are talking about, and it's mainly, I'd like to hear Frank clarify, meaning across the street, or right near by. What is the affect are we concerned with, a building that is just for production, is going to bring to an area. It's a building.

Commissioner Aieta: You don't know the affects or the smell that could emanate from that property. You don't know the affects or stuff because there's none to go and visit and look at. There's reports and stuff written on the Internet on the ones that are in Colorado that you can smell the marijuana, not burning, you can smell the actual marijuana from outside the facility.

Commissioner Leggo: Okay, I can't speak that I read that article.....

Commissioner Aieta: They are going to ventilate outside to the open air, just like when, the coffee place on Fenn Road, when they're making coffee, you can smell it all over the place. Or the bakery, when they are making bread, you can smell it. I mean, this stuff emanates odors. We don't know what the extent, for this to be operating twenty-four hours a day, right across from a residence zone, I don't believe that, I mean if you are willing to have the dispensary 1,000 feet from the residence zone and a church, what's the difference?

Commissioner Leggo: Well, a dispensary, stuff is being sold and taken out of there. We're talking about a closed production facility. I just wanted to get a clarification on that.

Commissioner Aieta: We have no information that, from the state or from anybody else of what the affects, the downside of this because it is brand new. You know, why are we the experiment? Why should we be the experiment for something brand new, for the State of Connecticut. I'm concerned about the residents that live in the Town of Newington. They expect certain things, when they buy their property. They expect certain things, they don't expect a facility that is producing marijuana. This is something brand new.

Commissioner Leggo: Okay, thanks.

Chairman Hall: Other comments, questions?

Commissioner Anest: Why didn't you put in the 25,000 square feet?

Craig Minor: It was just an oversight. We can put that in. I'll have it in for the next draft. For that matter, if you want to adopt it tonight, I can check my notes and see where it should go.

Commissioner Anest: I think we should see it in its final draft before we vote on it.

Commissioner Camillo: In some ways I agree with what Frank said, but it is manufacturing and we have that on Fenn Road, metal plating, welding, all sorts of manufacturing, and you

have odors from that. He's right, this is new, but are the odors going to bother us? I know there are odors when I drive down that road in certain areas, I think, what are they doing there today? We need to know more. I think we should put this off.

Commissioner Aieta: If you have been reading the papers, almost every day towns around us are looking at that regulation. Some towns don't have any, they don't have any distance requirements for anything, they could put it anywhere, and then other towns are strict in their limitations. I don't know, I just have a bad feeling about this, that people aren't coming because they don't know it could be across the street from their house. That's why. Can we notify these people, I mean, this thing has been going on for almost to the point of being ridiculous, we've kept this open for months.

Chairman Hall: That's the whole point, we have kept it open hoping that somebody would come forward, they haven't, whether we can blame weather or apathy, I don't know, but I just feel that we are giving people plenty of opportunity to come before us. We discuss it at every meeting, it's been in the paper. Yes, the other towns also are dealing with it, but that's why I would like to see something, whether it be extremely liberal or extremely restrictive, I want to see something that Newington does so if someone does come to us, license in hand, with the ability to do this, that we've got our rules and regulations in place so we know if they can do it or can't do it. So, I don't think that we ignore it because at some point we may be faced with it and we don't want to play catch up at that point. We want to have a structure in place so that if we have to deal with it, we know when, where and how it's going to happen. Not to say that tonight is the night that we're going to finalize this, it still needs some tweaking but we've given it our best shot, we've kept it open, we've gotten legal opinion, we've asked for people to come forward, we're doing the best we can.

Commissioner Aieta: One other thing that I think we should talk about. When we first started with this, we talked about hours of operation, we had it from eight in the morning to five at night. Now all of a sudden it comes from that to a twenty-four hour operation, I mean, even people who live next to an industrial, they get some relief on the weekends and after hours from people coming and going and working at the facilities in the industrial areas.

Commissioner Camillo: Most of those places on Fenn Road used to have three shifts, but the economy has changed that. If it ever changes back, they may go back to their three shifts, and in this case, plants don't stop growing at eight o'clock at night, because of the type of plants that they are, they need to be treated twenty-four hours a day. Limiting the hours of that I think would be a problem.

Commissioner Anest: I don't think you are going to have four or five employees, it's probably going to be one or two employees, so it's not going to be an obstruction to the surrounding neighborhood that there is going to be vehicles coming and going at all hours of the night. If it's three shifts, you know when they are going to come in, and when they are going to leave. It's not like a store that is open 24/7, which we do have, so the employees will be at a minimum.

Commissioner Sobieski: I think what we originally discussed was the sale, the limited hours, I don't believe it was anything about production. We have two different items here, you have production which obviously has to run 24/7/365, and you have the sale, which is limited between seven and seven. That was the two that we had Frank, but there are two distinct issues here, and if we are looking at a building that is 25,000 square feet, that's what we discussed, put that in the regulations, I think that is going to narrow it down, scope it down to a certain area.

Commissioner Leggo: Back to when I asked Frank about his concerns, I'm just wondering if we could check into and see if there is any need for a filtration system of any kind if this building is used for production. If it's an issue, I know that there are air filtration systems that are mandated for certain buildings, this may be something that has to be done.

Craig Minor: If your question is, can you mandate that? I would say yes, if you get someone who comes before you under this regulation, if it's passed, it's by Special Exception, so they will have to satisfy all of your concerns about things like odor and noise, so that seems like that would be a reasonable issue to resolve to your satisfaction before you approve the special permit for a production facility.

Commissioner Sobieski: Craig, would the state regulate the regulations as to how the building would be vented, or scrubbers, or whatever you would put in? What I'm saying is, the State regulations, would they set something in?

Craig Minor: They have already done it. The State has already issued the licenses for production. The four winners. I can find out to what extent the Commissioner of Consumer Protection looked into issues such as odor when he approved those four licenses. I can look into that.

Chairman Hall: Craig, for our next packet, would you enclose also the state regulation on that so that we can put them side by side. We'll have this and the state and see if that raises more questions for the next time as well.

Craig Minor: Sure.

Chairman Hall: Thank you. Anything else? So we will leave this open at least one more time and the next time in our packets we will get the state regulations plus the additions, you are going to add the 25,000.

Craig Minor: Right.

Chairman Hall: We'll put them side by side, we'll read them before we get here, that's our homework, and then have another discussion when we get here, and it will be a public hearing, people. Anybody who is listening, if you have anything to say, please come before us. That will be April 9th, Wednesday, April 9th.

Commissioner Aieta: A clarification of the 25,000 square feet. That's for existing buildings?

Craig Minor: Well, I think if somebody wanted to build a building for production and it would have to be 25,000 square feet. That's what they would have to build. I don't think your intent was to limit it to existing buildings.

Commissioner Aieta: That's the threshold for existing and.....

Craig Minor: It's for both, the building has to be 25,000 whether it's an existing one or built for this use, it has to be 25,000.

Chairman Hall: Minimum. Minimum of 25,000.

Craig Minor: Yes.

B. Petition 07-14: Special Exception (Section 3.2.9: Child Care) at 795 North Mountain Road, Nguyen Holding LLC, owner/applicant; Hai Xavier Nguyen, 795 North Mountain Road, Newington, CT, contact. Continued from March 12, 2014.

Chairman Hall: If the petitioner is here, if you would come forward please. State your name and address for the record.

Hai Xavier Hguyen, 785 North Mountain Road: I'm the owner there, but I'm not the operator. I have, a comment on the last petition. Let's say for a restaurant, applying for a liquor license, they have basically their property is requesting a liquor license permit, why can't we do that for this case, for marijuana production facility, as advertising a big sign saying this site is proposing for marijuana production. Why can't you do something like that? There is no difference from a liquor license because church and schools may be opposed to that also, so that is my input on that. I'm sorry I was late.

Chairman Hall: Okay. Thank you.

Hai Xavier Hguyen: I have some prints here that I got two hours ago because last time the surveyor had squeezed me in, so I'm just going to pass these along, these are the new updated prints.

The last time I was here the Commissioners had raised a few points which I worked tirelessly with my surveyor to resolve. Number one was the lack of parking spaces and the playground area. Last time the playground area was proposed in the back here, which the concern for safety of the kids to walk from the back of the building to the playground area, so after a few pointers, I forgot which Commissioner recommended to do the playground right directly behind the building to basically minimize the safety concern for the kids walking through the parking space. Notice that the back door is right here, and here, there's no car in or out here at all, so from here to here is a quick trip, not going through any on going traffic. So the proposed playground is right there. It's 22 x 50 which the State of Connecticut regulations from the Health Department is 75 square foot per student, per child on the playground. The applicant cannot make it here today because she has a cruise that she scheduled a long time ago, so I did talk to her before I came here, she is going to bring ten kids out at a time in thirty minutes interval, so she's keeping it at the 750 square foot required. We have 1100 square foot there allowed. The other safety concern, right now this is asphalt, it's pavement. What we are going to do is, I'm going to pour soil down there, at least eight inches thick for absorbing any kind of fall. I might do twelve because the required thickness is four, but I want to have the kids safe, and all of the, any kind of equipment will be buried. All the angles will be buried underneath the ground to minimize any kind of health or safety concern. This area will be fenced in by a chain link fence and at the top of the chain links we are going to have plastic coverings. All the barbed wire, no, all the wire at the top, just because it has to be at least four feet high, I'm doing at six feet, so in that way, I don't want any kind of like, say, climbing over the fence, because four feet is pretty much this high. So kid, being kids, they might climb up and go over or fall, so we are going to do it at at least six feet, but if the Commission wants it higher, more than happy to. We are eliminating the idea of the electrical wire being in the front, and the concern of the kids going across the street because there is two way traffic here, but that place is in the back, to do the playground. The other concern was the amount of parking space here. Up here, before we only showed four, and now we have eight, due to the fact that the surveyor at the time couldn't see all of the parking lines due to the snow. All the snow was piled on there. So that is eight, and on the back there are around thirty-seven. That's thirty-seven parking spaces here, dedicate one for handicapped accessibility. All the doors are wide enough for handicapped accessible and all the snow removal will be, in the winter, piled in the front here so that will not block any kind of traffic

from the back here. Also I consulted with the applicant about how many, really how many employees she would have permanent there, because I need to situate the parking problem. She said really, I would have seven permanent and two part-timers, that's according to her, that would come in once in a while, so being said, there is not really a parking requirement for day care, however, we based on the amount of employees she has to accommodate the amount of parking that is required. So this pretty much satisfies for square footage, for parking spaces, so that is all I have for now. I'm waiting for the Commissioners to discuss.

Chairman Hall: Do the Commissioners have any questions?

Commissioner Sobieski: I'd like to see something in front of this chain link where the kids are in the parking lot here, where it says the word, proposed, I'd like to see some flex-beam there or something in case somebody loses control of the car. Chain link is not necessarily going to stop.....

Hai Xavier Nguyen: What kind of material?

Commissioner Sobieski: Flex beam, or some other designated material that.....

Craig Minor: You mean like a bollard of some sort.

Commissioner Sobieski: Yeah, to protect the kids in case you know, somebody loses control of their vehicle. The other issue, are you going to remove the existing bituminous and put top soil in there?

Hai Xavier Nguyen: Yes, the bituminous will be removed out to here, out to here because of the slope of the parking lot, so this will be removed, and again, I'm sorry that it didn't show on there because of the time constraint, I did only have a week and a half, and he has other projects to do, so that will be moved out here pretty much is a fifteen foot move, pretty easy to do because we have to do that anyway because we have to pour soil down.

Commissioner Sobieski: So you are going to remove 22 feet by 50 of bituminous that is coming out, right?

Hai Xavier Hguyen: Yes.

Commissioner Camillo: Along with what Stan was saying about the bollards, you are going to have runoff running into that now that you are going to remove bituminous and replace it with soil. Are you going to put a curb so that the water doesn't run in there?

Hai Xavier Hguyen: There will be a curb up to basically, we don't want to keep on pouring soil in there, so doing a curb is very.....

Commissioner Camillo: Right, and you want to keep the kids dry. Also, on the fence going around, you will have another egress that can only be opened from the inside out, at a high point? So if something happens and they can't get out the other side, they will be able go out another gate?

Hai Xavier Hguyen: That's correct. Actually, I am going to put one gate here, and another gate just directly here, but that is for emergency use only, so I like two exits.

Commissioner Anest: I have a question. When the kids exit the building, and they walk around the outside of the building onto the playground, is that going to be constructed so that they can't run into the parking lot? How are they.....

Hai Xavier Hguyen: Well, because if we fence it up for the kid's purposes, then that would defeat the purpose of an emergency exit for other tenants there. Right now, what I could do, propose doing is to do a petition here just to basically have, it's really hard basically to have a fence, it's too contained. I just don't know how the other tenants will react to that because right here, it will be fenced from the front to the back, but I don't have any idea on how it fence it up, from here to here, into there, it's easy to do, but I don't have an idea of what you are asking for.

Commissioner Anest: So it is all paved, to where?

Hai Xavier Hguyen: It is all paved from here to all the way back here, everything from here back is all paved. Here is grass and rock, in the front. I could basically fence it up from here, all the way back here and then fence it so the kids cannot go this way, to the front, that's easily done because this is all soil here, so a couple of posts, no big deal.

Commissioner Anest: You understand that our concern is the safety of the children and if one was to run off or a car was to drive down there, that is my big concern.

Hai Xavier Hguyen: I understand. So what would you propose that I do to prevent that because in any kind of, like we go to the park, from the parking lot to the playground, there isn't really a fence to go into that playground, so that is the same idea here, so that when the teacher, the staff brings a student out, there will be one in the front, one in the back, and one in the middle to prevent that from happening. So my thing is, it will be fenced here, fenced here, so I just can't have an idea, but you are right, safety is the number one concern, I wouldn't place my kid in a place that was not safe. I have a two month old.

Commissioner Camillo: The building next door, to the east, have you checked to see what they manufacture?

Hai Xavier Hguyen: Metal.

Commissioner Camillo: They are a plating company.

Hai Xavier Hguyen: Plating, yes.

Commissioner Camillo: And it is safe on that side of the building?

Hai Xavier Hguyen: There is a wall going up and there are trees growing up, using them as a fence, and all the activity is facing the east of the building, so from our building, looking at them, we just see building. We don't have any kind of traffic, because the lot right above the wall is pretty much vacant, and there is a no parking sign there, so, there is no activity for them on the east.

Commissioner Leggo: I know that we talked about the parking spots right up front there for pick-up and drop off. Those eight spots would be marked, somehow marked pick-up and drop off only.

Hai Xavier Hguyen: Pretty much, we are going to mark it as express. Express because there isn't a requirement for that to be drop off and pick-up because again we are looking at

safety. We can mark it as express and pick-up because during the pick-up and drop off hours, they will be dedicated for that. But in term of, you can't park there, that kind of thing, that, it could be done, no problem, but I don't know how the visitors would appreciate that.

Commissioner Leggo: If they had children, they would.

Chairman Hall: Any other questions?

Commissioner Aieta: For the Planner, have you gone over the parking for the square foot footage of the day care, his office and then for other uses that might potentially come into the building?

Craig Minor: Yes, and originally without knowing who the third tenant will be, and not knowing how many parking spaces there could be, I wasn't able to really give you a good solid analysis last time. Now that I have this information, I will be able to give you a better one. We still don't know who the third tenant will be, but this might end up limiting the third space to something like warehouse or assembly which has much less of a parking requirement. I'll have a better answer for you after I have had a chance to review the plans.

Commissioner Aieta: So you are going to use nine or ten spots for the day care center?

Craig Minor: Well, as I reported last time, my research into other towns, the amount of parking required for day care is all over the map. Different towns require more than others, I suggested, let's be in the middle, and so that it probably what I will continue to recommend, but let me analyze this and see what comes back.

Commissioner Aieta: They are basically giving you, what they are saying is they are having nine employees.

Craig Minor: Yeah, but I'm also not sure, because I haven't checked yet if this plan is what it looks like it is, so let me have a chance to go over it, and then I'll have a better answer next time.

Hai Xavier Nguyen: The first floor, whoever the tenant might be, the allowed square footage from me, the landlord, is only 2,000 square feet for that tenant, due to the fact that there is a communal lounge there, a break room. So that, I don't know if it should or should not have any bearing in the calculation of the square footage for parking space, and the Town of Newington has six spaces per thousand square foot. They are going to count, on my side of the building, upstairs, I only have five employees, but regardless, I have 3,000 square foot, that's eighteen, and on the bottom, twelve, that's thirty and then seven for the day care, seven to ten, that's thirty seven, and I have forty-five including the front, but let's not take the front, take the back only, that's thirty seven in the back.

Commissioner Camillo: You just said you have a common area?

Hai Xavier Nguyen: Yes.

Commissioner Camillo: Does that connect anywhere to the daycare?

Hai Xavier Nguyen: No. There is a fire wall. I went through with the Fire Marshal, and he said, there's a fire wall, so that is good.

Chairman Hall: Any more questions, comments?

Commissioner Leggo: I just have one more looking at the map now, that clearance, that drive between the wider part of the building there, is that going to be, you have traffic going around the parking lot, in a counterclockwise direction, coming back out, is that enough room there if someone is coming each way.

Hai Xavier Nguyen: There's a stop sign right here, and there's a mirror right here, facing this way. That's how it was originally designed, I have not done anything to it. It works, we have incoming traffic all around, and I also posted a sign to sound the horn, there's nothing I can do because over here there's central air. I would like to, originally before all this came into play, I would like to make a driveway through here, so people could just go out that way, but it's impossible with the air conditioners. It would cost too much to move them.

Chairman Hall: Is that it? Since this is a public hearing, we'll be asking if there is anyone from the public wishing to speak in favor of this petition? Anyone wishing to speak in opposition? Anyone wishing to speak? Seeing none.....

Craig Minor: I'd like to continue it.

Chairman Hall: Yes, we'll keep this open and get a few more questions answered for the next time.

C. Petition 08-14: Special Exception (Section 6.2.4: Free standing Business Sign) at 72-82 Pane Road (Newington Electric) EBI Pane Road Realty LLC, owner, Sign Pro Inc., applicant Kyle Niles, 168 Stanley Street, New Britain, CT, contact. Continued from March 12, 2014.

Chairman Hall: If the petitioner is here, come forward and state your name and address for the record.

Kyle Niles, 168 Stanley Street, New Britain: Project Manager for Sign Pro. We're here for the second time to get your permission for that free standing monument sign for 72-82 Pane Road. Last time I was here it seemed that everything was, regulation wise as far as your code, everything satisfied the code. There were some questions I believe and I brought with me tonight Mr. Ed Ingalls who is the owner of that property and that business, so if there are any questions outside of the sign realm, he could certainly speak to that.

Chairman Hall: Any of the Commissioners have any questions on this sign? Craig, do you have anything to add?

Craig Minor: No.

Chairman Hall: We had them come back I think because of the trees. We were talking about the trees.

Chairman Hall: I think you had done some research on the tree situation.

Craig Minor: Right, the trees, per se are not an actual zoning requirement. That area needs to be landscaped, which it is, but the regulations don't specify that there have to be trees there.

Kyle Niles: Also, I'm under the impression that those trees are the towns also. There are existing trees there that belong to the Town of Newington, and they are in their right of way.

Craig Minor: I don't know, well, that I doubt.

Commissioner Aieta: If they are in the right of way, that means that your sign is going to be in the right of way.

Kyle Niles: No, the sign is behind the trees. The sign that is going in now is pushed back another foot from where the existing sign is.

Chairman Hall: Up on the rise.

Kyle Niles: Yes, towards the parking lot.

Craig Minor: Well, according to the plan that we have, the trees are definitely on private property.

Kyle Niles: Those trees are the same trees that are in the tree line that go up the road though, which I believe are the town trees.

Craig Minor: I don't know. All I can say is that these trees are definitely on your property, according to this plan.

Commissioner Aieta: To shed some light on the trees, the Town I believe planted those trees to beautify Pane Road. It's been a number of number of years, and I believe that they had permission from the property owners, where there was not enough room to put them in the right of way, that they could put the trees on private property, and I know that the Town still prunes those trees every year, so the Town is maintaining those trees.

Chairman Hall: Thank you. Any other questions? So that answers the problem that the trees would not be blocking the sign, that was the concern, so at this point it's just, you're going to have some landscaping to complement the sign, you're not going to have.....

Kyle Niles: Do you have any questions that you want to ask Mr. Ingells, he could come up and answer that. He's done a really nice job with that property, and the sign is just the last piece to finish it, to complement the property, so, he's done a nice job.

Ed Ingalls, Newington Electric: When I originally bought the property in August from John Melenopolis and I asked him about, there are certain trees that are right along the road, like right on the curve, right on the curve line of Pane Road, and they are quite nice, when they blossom, and I was telling him, just in conversation that I'm going to be doing this and doing that and planting some trees there, and he warned me against planting trees there because it was town property. I did ask the town, and they also told me that I could not plant any trees there because that was the town right of way, so I guess my question is, can I replace those trees that are falling down, there were six trees there, you can see on the plan, there's only three now, the other three have been missing for fifteen years. Can I put the same trees back there? Like Frank said, the town put them in there and they have been maintaining them,

Craig Minor: Well, actually, there is no such thing as "the town," so if, I don't know who put those trees there but it wasn't the Planning and Zoning Commission, so this is the wrong board to ask if you can remove them, because this board didn't put them.....

Ed Ingalls: No, I want to replace them.....

Craig Minor: By the same token, the plan that you submitted, very clearly shows that those, one, two, three, four, five six two inch caliper maples, they probably aren't two inches any more, but they are clearly on your property, they are well back from the street, so unless the town went, which would make sense, obtained some kind of an easement from you, to give them the right to maintain them, and to prevent you from cutting them down, I don't know of any reason why you couldn't cut them down, but you might want to make sure that the previous owner and the then Town Manager didn't sign some kind of agreement which would be on file in the land records, granting some kind of rights to the Town to plant and maintain these trees and prevent you from cutting them down. My point is, this board is not in a position to say yes or no.

Ed Ingalls: I know, but I thought that I had to be ten feet from the road because the first ten feet is town easement/right of way.

Craig Minor: Well, you are kind of all over the place. The map that you submitted very clearly shows the property boundaries, and if you want to plant trees on your property I'm not aware of any zoning regulation that prohibits you from doing that. There may be other regulations, the police department may have a rule that you can't do it because it blocks sight lines, the public works may have a reason because it blocks sight lines. All I can tell you this board doesn't have any rules to that effect, so we can't tell you yes or no, or anything because that isn't this board's area of expertise.

Commissioner Aieta: I can clarify this for you all. Those trees that are shown on the site plan are not the same trees that you are looking at here. Those are maples, these are some other kind of crabapple. These trees were planted by the town. Those, I don't know where they are showing up on the site plan that.....

Kyle Niles: That is a very old site plan and they are not there anymore.

Commissioner Aieta: No, they're not.

Kyle Niles: That was submitted strictly for the fact of showing you placement of the sign. Showing that it's the proper distance away from the road.....

Commissioner Aieta: He's correct.

Ed Ingalls: So who would I have to go and ask if I can plant.....

Chairman Hall: Parks and grounds.

Kyle Niles: He just wants to beautify that island, that's all he wants to do.

Commissioner Aieta: The site plan may have had trees there at some point, they're gone. The town went in and planted them.

Ed Ingalls: Okay, thank you very much.

Chairman Hall: Okay, no other comments from the Commissioners? I don't see any reason to keep this open, I think we have solved this issue.

Commissioner Leggo: Move it to Old Business.

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

- D. Petition 13-14: Special Exception (Section 3.2.1: Church) at 37 Ann Street, 37 Ann Street LLC, owner, Cedar Mountain Church, applicant, Stephen Cianci, 199 Back Lane, Newington, CT, contact.**

Deleted from the Agenda

- IV. PUBLIC PARTICIPATION** (for items not listed on the agenda, speakers limited to two minutes.

None

V. REMARKS BY COMMISSIONERS

Commissioner Leggo: I just want to make sure that we say it a couple of times tonight, if anybody out there in the public has anything to say, any concerns, anything about the medical marijuana please come to the next meeting.

Chairman Hall: Thank you. Anybody else?

VI. MINUTES

- A. March 12, 2014

Commissioner Sobieski moved to accept the minutes of the March 12, 2014 Regular Meeting. The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion, with six voting YES.

VII. NEW BUSINESS

- A. Petition 11-14: Site Plan Approval (Fueling Station) at 16 Fenn Road, Fenn Road Associates LLC, owner, The Stop & Shop Supermarket LLC, applicant, Attorney Lawrence S. Shipman, 20 Batterson Park Road, Farmington CT, contact.

Craig Minor: I put this on the agenda when I prepared it last week just in case the applicant wanted to discuss the issue of the road with the Commission, but the applicant is not here and the applicant and I and the Town Attorney have had several meetings about this in the last day or so, so there is no need for it to be discussed tonight.

- B. Petition 14-14: 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.
- C. Performance Bond Approval for "Harvest Ridge" (Shady Hill Lane) Bradford-Allen owner/applicant/contact.

Items B and C deleted from the Agenda

VIII. OLD BUSINESS

Petition 08-14

Special Exception (Section 6.2.4; Free-standing Business Sign) at 72-82 Pane Road ("Newington Electric")

Sign Pro Inc., applicant, Kyle Niles, 168 Stanley Street, New Britain CT, contact.

Commissioner Aieta moved to approve Petition 08-14: Special Exception (Section 6.2.4; Free-standing Business Sign) at 72-82 Pane Road ("Newington Electric") EBI Pane Road Realty, LLC, owner; Sign Pro Inc., applicant, Kyle Niles, 168 Stanley Street, New Britain, CT, contact.

CONDITIONS:

None

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

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING:

- A. Petition 15-14: Special Exception (Section 6.13; Accessory Apartment at 244 Walsh Avenue, Calvin and Marisa Cross, owner/applicants, Donna-Jean Dargie, 1331 Silas Deane Highway, Wethersfield, CT, contact.

Craig Minor: The first item is an accessory apartment at 244 Walsh Avenue.

Commissioner Aieta: Is there anything you can tell us about this before we.....

Craig Minor: Well I can tell you that my preliminary review of the site plan shows that it is too big. It's too big.

Commissioner Aieta: Is this an existing one like the last time?

Craig Minor: Yes.

Commissioner Aieta: So again, someone came in, asked for it, and

Craig Minor: I don't even know if the previous owners even got permission for this one. All I know is that the current owners are trying to sell it, they say they bought it with this apartment.

Commissioner Anest: Is there anything in the building file?

Craig Minor: As to whether it got TPZ approval.....

Commissioner Anest: Well, she says they have copies of all of the appropriate permits.

Craig Minor: Exactly, they have building permits, they have lots of building permits, they have no zoning approval.

Commissioner Anest: So there is no application in that building file.

Craig Minor: Correct, the previous owner never got approval for it, and the current owners bought it that way, and only now is it becoming a problem because the new owners are trying to sell it. It never got TPZ approval.

Commissioner Aieta: What are we going to get, one of these a week? This is the problem I have when I brought up about the other one. The people are selling their house, the other one was a special case, but everybody who sells their house is going to come in and say, they are going to want more money for their house, they are going to say they have an in-law apartment to pump up the price of the house. I don't think that is the intent of the regulations.

Chairman Hall: But this is another one, it has existed this way for years.

Commissioner Aieta: They existed illegally.

Chairman Hall: I know, but what I'm saying is that, you're saying that they are trying to modify it now, to sell it. That isn't the case. The case is, the house existed as essentially a two family house, and now these people who own it are trying to sell it, and again have found out that permits were never taken out, it's not a legal apartment because it hasn't been approved, so then they have to come back to us to try to approve it.

Commissioner Leggo: I read the letter that was in the packet that we got, you know, stating that it was never, the in-law apartment was never approved. I mean, I'm just asking this, is there proof before the fire and everything, that there was another apartment there?

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

Commissioner Leggo: I'm not saying that they remodeled and made one, but it was never approved, it was never on record or anything that there was an apartment in that house.

Chairman Hall: Except there were two separate families living in it, one up and one down. The.....

Commissioner Aieta: So it really wasn't an in-law apartment, it was like a two family house.

Chairman Hall: I think there was a relationship between the two but they were not living together.

Commissioner Aieta: You have to find out if they had separate utilities.

Commissioner Leggo: It was one of their parents, it said in the letter, the parents were living.....

Commissioner Anest: The wife's parents.

Commissioner Leggo: Were living on the first floor....

Chairman Hall: It was the younger people who lived on the first floor, the parents lived upstairs.

Commissioner Leggo: Just curious if it always was.

Craig Minor: So what is it you want me to research, to find out?

Commissioner Aieta: If it has separate utilities, and you're saying from your investigation so far that it is bigger than what is allowed under our regulations?

Craig Minor: Right.

Commissioner Leggo: The percentage, right?

Craig Minor: It's the whole second story. So that is a problem, but getting back to your point about, if there are separate utilities. Is that a good thing or a bad thing?

Commissioner Aieta: Well, it's a bad thing, because if they had separate utilities, basically it's a two family house. Under the regulations, a house with an accessory apartment has single utilities.

Commissioner Sobieski: I get a little concerned with all of these accessory apartments coming in because, let's assume that the house is sold to a single person. They move in, now all of a sudden, now they have an apartment that they technically rent out to somebody, even though we say it's not supposed to be, there is really no way of enforcing that.

Chairman Hall: That's what we had discussed when we brought the regulation back again. That was one of the big concerns.

Commissioner Sobieski: I didn't realize that we had that many out there. How many more could we possibly have out there.

Chairman Hall: Oh, there's plenty.

Craig Minor: We'll never know.

Commissioner Aieta: That's another reason that we put the time limits on it. Three years, so we can keep checking them, because things change, people change.....

Chairman Hall: The situation changes.

Commissioner Aieta: Who knows how many are like this, in town?

Chairman Hall: That's the problem. That's why we wrestled with it so much the last time around, bringing it back, but you also don't want to penalize people who do have legitimate in-law, or parent issues, or disabled children. I mean, we have some in town specifically designed because they had an adult disabled child that could not live on his or her own, but it was a perfect situation. Still had some freedom, but close enough to the parents. I mean, there are situations that are ideal, but in anything, the opportunity for abuse is out there as well. We do the best we can.

- B. Petition 16-14: Special Exception (Section 3.15.3: Temporary Outdoor Seating at 3260 Berlin Turnpike ("Plaza Azteca") Kleban Newington LLC, owner, Manuel Rubio, 3260 Berlin Turnpike, Newington, CT applicant/contact.

Craig Minor: Okay, this is the Cinco de Mayo event for the third year in a row.

Chairman Hall: Are we going to do this temporary outdoor seating is the issue, or are we going to do special event?

Craig Minor: Well, as taxpayers, you don't want to know how many minutes, maybe not hours I have spent trying to find a category to put this kind of request in. It's not a special event, under your zoning regs, because special events only apply for non-profits. It's, the restaurant regulation allows temporary seasonal outdoor seating if approved by the Commission, but this isn't temporary seasonal outdoor seating, it's a special event for one day, so that category didn't fit, so what I'm doing is, I'm having them come under the original Special Permit for a restaurant which includes the words temporary outdoor seating, because it's the only category I could find that even closely fit, and I'm going to suggest that you approve it this time for three years so we don't keep charging these folks \$250.00 every time they want to have a one day Cinco de Mayo event, but I can't find any other category that I can put it under.

Commissioner Aieta: We should just check this time to make sure there was no police calls or anything, if they don't have any police complaints, your suggestion to extend them is not a bad idea. They've been doing it, I think this is the third.....

Craig Minor: At least the third that I know of.

Commissioner Anest: So they have gone three years without any problems.

Chairman Hall: Okay, and it's still two weeks away, so we may end up with more coming before us before the actual meeting night.

Craig Minor: Okay, April 9th for that one?

Chairman Hall: Yes,.

X. TOWN PLANNER REPORT

Craig Minor: Not much to report, the third item, Newington Junction TOD Planning, this is still the status, in fact, I was just thinking when I came back in tonight, that I'd asked Councilman Borjeson for some dates and I just realized that I hadn't heard back from him on that, so I need to remind him that I need him to tell me what dates he would like to have that presentation.

Sign regulations, the committee met again today, went over the draft, talked about some additional possible changes, and I guess the committee is going to want to meet again before bringing it to the full board.

That's really all I have. Nothing new on Modern Tire since the last time.

Commissioner Anest: On this Newington junction TOD, now this is something that might be beneficial if we had a combined meeting with Economic Development, the Council might want to sit in, so we are all hearing the same presentation, or asking the same questions, or not asking the questions, that we might want to ask and hadn't thought of.

Craig Minor: Right, and that's what I suggested to Councilman Borjeson that TPZ, EDC and the Town Council be invited to come to that presentation, so that limits the dates that it can be, because with all those boards having their meetings, so that is again why I am waiting for Terry to tell me which date he would like to hold it, so that everybody that we just mentioned could come.

Commissioner Anest: Thank you.

Craig Minor: Okay.

XI. COMMUNICATION

None

XII. PUBLIC PARTICIPATION

None

XIII. REMARKS BY COMMISSIONERS

None

XIV. CLOSING REMARKS BY THE CHAIRMAN

Chairman Hall: We will meet again in two weeks, on the 9th of April. Hopefully at that point hear something about the medical marijuana, maybe, if not, we'll just do the best we can.

XV. ADJOURN

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Camillo. The meeting was adjourned at 8:00 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary