

NEWINGTON TOWN PLAN AND ZONING COMMISSION

April 11, 2012

Regular Meeting

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

I. ROLL CALL

Commissioners Present

Commissioner Anest
Commissioner Camerota
Commissioner Hall
Chairman Pruet
Commissioner Sobieski
Commissioner Woods
Commissioner Aieta
Commissioner Camillo

Commissioners Absent

Commissioner Lenares

Staff Present

Glenn Chalder, Consulting Town Planner, Planimetrics

Commissioner Camillo was seated for Commissioner Lenares

Chairman Pruet: Before I start the meeting I would like to welcome our new Town Planner, Craig Minor, he's in our audience tonight. Craig, take a bow. Craig has a lot of experience and we're very fortunate to have him, and he will be officially on board next Monday, so welcome to Newington, Craig.

II. PUBLIC HEARINGS

- A. PETITION 01-12 – 262 Brockett Street, Gianni DiDomenico, Sculptures Salon, 262 Brockett Street, Newington, CT 06111, applicant, JGF Holding Company LLC, 17 Farmington Avenue, Plainville, CT 06062 owner, request for Special Exception Section 3.2.6 school for cosmetology training, B-BT Berlin Turnpike Business Zone District.**

Chairman Pruet: Is the petitioner here? If you could come forward sir, to the podium and just state your name and address for the record please?

Gianni DiDomenico: Good evening, my name is Gianni DiDomenico, I'm going forward to get an exchange from a location that we came in two years ago to open a cosmetology school on New Britain Avenue and I'm looking to transfer the license to 262 Brockett Street. The State requires me to do that so I have to go before the Town of Newington first before I do that, I can't just operate a training session out of the salon that we have now.

Chairman Pruet: Is that it? Can you give us some background on the hours, the number of trainers, number of employees that you have on board now?

Gianni DiDomenico: Yeah, we have about eighteen employees, it is a salon. I'm looking to just basically transfer the license, incorporate a minimum amount of students in training, incorporate with the salon, the salon is our main business, as it is right now it has been in business for more than twenty something years. It's just a state requirement that if I do bring in a student and I do train someone personally, they can go forward and take their board exams, being trained under me, one on one, I do need the state license. That's basically, if they do come in, our salon hours now are, we open at nine and close at seven every day. If I do bring in minimal students, whatever, to train with me personally, it would be at 9:00 and they are done at 3:30 because you have to go by the state rules and regulations. As far as classroom and space wise, I do have an outline of the space at the salon, it's a very small space, again according, I'm pretty sure the town has requirements for a sit down seating area, they will be on a lap top for about two hours every morning going through a disc, going through, learning how to study for cosmetology.

Chairman Pruet: How many students will you have under your control at one time?

Gianni DiDomenico: One.

Chairman Pruet: One.

Gianni DiDomenico: Like I said, you know, it's more to get the license transferred. I'm not looking to grow big, our main business is the salon business. It's just more, if I do a training, one or two, I do have the license in my hand so I can train these individuals personally and they could go forward with their state test and their boards. If I decide to grow the business then this location would be way too small.

Chairman Pruet: Thank you. Glenn, staff comments?

Glenn Chalder: I think the Commission has approved as the applicant indicated a license on New Britain Avenue two years ago, so the Commission has had experience with this before. One of the issues that arose at that application at that time was the adequacy of parking given the salon use again and I think we have some examples of this now at Brockett Street. The police chief has informed me that he has received some comments if you will from the public about people parking on the street restricting sight lines, etc., so we do have some concerns. The Chief has indicated that he is going to be signing the street for No Parking zone, so employees, or customers, whoever is parking at the Plaza, I'm not sure if they are from the salon, if they continue to park there, there will be repercussions, if you will. I think the Commission is probably in need of having some additional clarification from the applicant in terms of number of students and number of teachers. The space that is being proposed for the school use is approximately 872 square feet, and under the parking standards that were applied to the shopping center that would result in five parking spaces attributed to that amount of square footage. So the issue before the Commission in a sense is, is that if it was a permitted use in the zone, there would be no application coming in. But because it is a Special Exception, you have discretion in this situation, and if it is going to demand more than five parking spaces, then there is a significant, if there is less than five, we still have the parking issue with the property. Finally the applicant had indicated with some material submitted with the application form that he was going to talk to an abutter to get permission to use adjacent parking and that could ameliorate the parking situation, so I'm wondering if you have any information for the Commission on that?

Gianni DiDomenico: I have not gone forward with that, right now we do, once in a while, there are a few people who park on the road at their own discretion, we tell them not to, but that is their own choice. Some people park in Puerto Vallarta, we do have one space of 860 square feet that we do keep vacant right now, specifically for the parking situation, and again, I'm not looking to go big with this school, this is just because I need to go to get state requirements if I do train a student or an individual, I can send them to get their license at the end of the day, so as far as teachers and how many other people there would be, there will not be anybody else coming in to teach and having a parking situation as far as that is concerned. You are going to have one more person attending from 9:00 to 4:00 according to the, legally the school hours that we train them. Like I said, our main focus is our salon right now and that is our focus. This is just to get a transfer, so if I do train an individual I'm certified with the state so they can get their certification. Part of, and it shows that, I did bring a blueprint of our salon, and most of it will be in the salon area. As I said, we do have, I put on the application the 860 square foot space, just in case I needed it for a classroom or to show or display some charts or something like that. We are holding it right now for the parking spaces for that issue.

Glenn Chalder: Just so the record is clear, I don't want to mislead the Commission, I had assumed, based on this plan submitted that what you were requesting was use of this tenant space, the one that is currently unoccupied for the school, but if, I think from your testimony you are going to incorporate the cosmetology school in the salon?

Gianni DiDomenico: I'm trying to incorporate both, I have it almost as a reserve, that space as a reserve.

Glenn Chalder: I would recommend to the Commission that you consider this issue, because it's possible, if I understand the testimony correctly, if the school is located here, this space could be occupied by another use, in which case we have additional demand placed, as a result of the school on this space in the parking.

Gianni DiDomenico: Well it would be, to answer your question if I'm not mistaken, it's combined. Does that make sense? So the school would be combined, this is the additional space that you have on that blueprint right there, it's combined with the school, with the salon.

Glenn Chalder: Let me ask you a question. Are you leasing this space?

Gianni DiDomenico: That would be part of the salon, correct.

Glenn Chalder: Okay. So it is, tenant space C, which is the space if you will, which is being allocated to the school and will not be occupied by another use in the future.

Gianni DiDomenico: Another tenant, correct. I probably was coming across a different way, but I've looked at four or five hundred blueprints in the last two years when we developed this plaza, you'll have to excuse me, it's.....

Glenn Chalder: The memo that you submitted with the application indicated that the school itself works on a twelve month schedule, and accepts no more than two students each semester. What is the normal length of time that a student would be in the program?

Gianni DiDomenico: Depending on their hours, if a student shows up every day, it could be anywhere between nine and twelve months. Every curriculum is different. I run between

nine and twelve months, my curriculum that I submit to the state. Again, it's not my own personal curriculum, it's a state certified program.

Glenn Chalder: So is it possible that if you have two students per semester, you could have actually four students on the premises at the same time?

Gianni DiDomenico: No. First of all, I don't have the time or the space to do that. I would need a larger building, so I would, like I said, would be minimal students because you are on a nine to twelve months.

Glenn Chalder: Do you have any commitment that you can make to the Commission as to how many students you think would be on the premises at any one time.

Gianni DiDomenico: As in today?

Glenn Chalder: Well, there is nobody there today.

Gianni DiDomenico: Yeah, I mean, like how many students? I could have up to twenty students but that isn't possible. It's what I could handle. Could I handle four or five, possibly I could, I don't know if that would happen. Again, if that does happen then yes, I would have to look towards growing. Could there be four or five, there is a possibility if I decide to grow it that way, but again, our main focus is our salon business. That's what we focus on, this is just to train people who ask me personally to train them, after nine or twelve months, they want to go in front, and not waste their time going somewhere else, and legally to be able to train and get their license.

Chairman Pruet: My concern is if he does have three or four or five students, how would that impact the present parking situation?

Glenn Chalder: I think there is a parking situation today, the police will begin to enforce the on-street parking, which unfortunately may affect the business so I think it's in the applicants interest to find a solution to the parking situation. There's only so many parking spaces at that site, so it's possible, given the nature of the business, that on a weekend, with a bridal party or some other situation, there would be a lot of people there for a lot of activity, and that could be an issue or concern, so I think the Commission should consider the different uses that are at the property today, there's a café-bakery where the amount of public seating was calibrated for the number of parking spaces associated with the square footage and we have the salon which I think indicates that there are about eighteen employees if you will, at that space, we have the vacant 872 square feet and then we have another tenant space at 872 square feet which is occupied by.....

Gianni DiDomenico: Cinderella

Glenn Chalder: Cinderella's Closet I think.

Gianni DiDomenico: Cinderella's Closet, yes, she has right now probably one to two customers every three or four hours, customers that pop in. Most of the people that come into the plaza are basically our clients, so whoever comes into the plaza now are going to check out her things.

Chairman Pruet: Would you, if the applicant had an agreement with that restaurant for parking, would that be a viable solution to the situation for the parking.

Glenn Chalder: I think it's a better situation than we have at the present time, and certainly a better situation than if the police begin to enforce parking. That is going to cause some difficulty, either for the employees of the business or the customers, so if there was a situation that if the major business at the adjacent site is in the evening for example, and the hours would probably start to tail off late afternoon that could be a sharing of parking, so I think it's a better solution that the Commission should factor into your decision making as to how that would.....

Gianni DiDomenico: If you don't mind me interrupting, with all due respect, we do have a verbal agreement with the Mexican restaurant as it stands right now. There are some, a lot of our employees park over there. From my understanding they are, I think trying to get more parking, he wants to grow his business or something, but right now we do have a verbal agreement, whether that helps anybody or not, that a lot of our employees park on, it's not even the parking lot, it's part on the parking lot and part on the dirt. Our employees don't mind that. If there is parking on the street, that's where they go sometime.

Glenn Chalder: For the application on New Britain Avenue there was a letter from the adjacent I think it was the adjacent 7-11, so I would urge the Commission, should there be property sales, transfers, tenant changes in the future that there is an understanding that if the Commission were to act favorably on this application there is an understanding or premise that you based it upon on an understanding on adjacent properties. But again, the parking issue here is significant and blocking sight lines on some adjacent properties and the police are going to be looking at that independently and you should factor that into your decision as well.

Chairman Pruet: Thank you. Commissioner comments?

Commissioner Anest: I have a question. How many employees are there at a particular time? Are all 18 employees, do you have 18 stations?

Gianni DiDomenico: Yes, we have 18 stations, and we pretty much have a full staff, I'll say probably nine of them are part-time. So, at once, you don't have 18 employees. I think there is probably a two hour gap on a Thursday, that we have maybe sixteen or seventeen all there together, then after that two hours another shift leaves.

Commissioner Anest: Okay, and when you were on New Britain Avenue, how many students have you had there at any given time?

Gianni DiDomenico: We never got it up and running because of the fact that when I did get it approved from you and from the state, the people who owned that property on New Britain Avenue, I actually built a school and everything there, and we had ten applicants at the time, ready to go. We had a little controversy with the owners of the property and things just didn't pan out and then we went to build the plaza and the new salon and I just kind of put it on the back burner, it wasn't my number one focus at the time. So, you know, we did have a lot of applicants. Again, that was totally a school itself, it wasn't a salon and a school. Because you have a four thousand square foot space for the salon, that's our main focus, and I can't take too much of my focus off of that. Again, this is more one on one, personal individual training but in order to do it the right way, the legal way, by the state, I can't do anything unless I have that license under my name, approved by the town. But yeah, at New Britain Avenue we did have several applicants, but it was a school, it wasn't a school and a salon together.

Commissioner Anest: So you never utilized it?

Gianni DiDomenico: We never utilized it.

Chairman Pruet: Additional Commissioner comments, concerns?

Okay, this is a public hearing. If you want to take a seat, we're going to call upon the public to comment on this. Anyone from the public wishing to speak in favor of this petition?

Anybody from the public wishing to speak against this petition. If you would come forward, state your name and address for the record, at the podium please?

Maureen Anderson, 205 East Robbins Avenue: I have to oppose this, I heard some of your comments about the parking, and just the past couple of days I made sure that I took pictures. It's horrible, it's dangerous. Constant parking all over the street, different times of the day. This is just an example, took it in the middle of the road, and you can't even stay in your lane, so the oncoming traffic is coming towards you, if you are trying to get in and out of any of those parking lots, you can't see because they are constantly parking there. I don't think they should do anything in this building until they get the parking situation under control. I've actually sent in a note to put up No Parking signs. Anybody is welcome to see, this is Friday at 10:30 in the morning, so they weren't open that long, and there were already six cars parking in the road. And if you're not familiar with it, it's in between the Berlin Turnpike and Kitts Lane, busy intersections, plus you have the CITGO exiting and that plaza exiting. It's a nuisance. I didn't know about this until just recently because I wasn't on the list because I don't live on Brockett, but I did find out about it, so if anybody does want to look at these pictures. I'm totally opposed until they get the parking under control. Love to have your business, get the parking under control, I'm all for it. I don't ever want to shut down business.

Glenn Chalder: Is it okay if we keep these for the record?

Maureen Anderson: Absolutely.

Chairman Pruet: Anyone else from the public wishing to speak against this petition?

Wendy Whitehouse, 238 Brockett Street: As you can tell from the address, my house is in those pictures. I stand in my kitchen window and I look out at those cars, five days a week, all day, every day, and they are the same cars, they are not customers. Those are employees, those cars pull in, they park there and they stay there for ten, twelve, however many hours. My main concern was if he was going to open a school, was it then going to be open on the weekends for weekend classes, evening classes, and this parking would be there at this point too. Obviously, I guess that is not the case, but what Maureen said was totally true. I can stand in my kitchen window and I see the cars going around each other. That intersection at Kitts Lane is bad as it is, because nobody stops, they don't believe in the stop signs there, but with those cars there blocking the view, and I've actually seen people pull out of the CITGO station and almost get creamed because people just can't see. Again, as Maureen said, I have no problem with the business being there, but those cars need to get off the street and they need to stay off the street because it is very dangerous. It's not a wide street either, and I was just on there today, and my car was halfway into the other lane. If somebody else had been coming down, they would have to go quite far out around me so, again, it's the parking.

Chairman Pruet: Thank you. Anybody else from the public wishing to speak against this petition. Okay, the applicant has the opportunity to rebut the comments from the public.

Gianni DiDomenico: First of all, I'm not too good at this, and with all due respect your comments and everything and I understand that there is parking on the road. I'm there

everyday, and I see it myself. Whether it's our people or the bakery people, I'm not sure exactly who it is. I will go back tomorrow and have a meeting and talk about it and have those people either park in our plaza or park at Puerto Vallarta because we do have a verbal agreement and I totally apologize about that. Sometimes it is out of my control. I don't have a problem with the police or the Commissioners who come and needs to put signs up there, I think it's a great idea. Rules are rules and the law is the law, so I don't have a problem with that. I'm not asking for a lot here. We've been in business for twenty-five, thirty years, and again I respect what you are saying. I'm asking for a minimum, you know, we do have the vacant space, we would like to put it to use, if we don't take it, somebody else might come and there might possibly be a bigger issue. I'm just looking to bring in some young kids who want to get involved with the business and have me personally train them so they can get licensed. That's all I'm asking for. If you could respect that, I would appreciate that, but I will go back tomorrow to my staff and if it is any of them I will make sure they park in the plaza or next store at Puerto Vallarta.

Chairman Pruet: Thank you. There is opportunity for the public to rebut that, for up to five minutes. Anyone wishing to comment on that?

Maureen Anderson: I'm sorry again, it's not an argument please, but it is your business because it does not happen on Sunday and Monday when you are closed. It's the same cars, I didn't want to nit-pick saying it was the same cars all the time, I could have taken license plate numbers, I don't want to do that. Just take care of the parking, have some control, I'd be happy to speak on your behalf.

Chairman Pruet: Okay, what's the pleasure of the Commission on this petition? Keep it open, close it, I need some input.

Commissioner Sobieski: I'd like to get a written agreement with Puerto Vallarta and the hairdressing school. Verbal is okay, but if the property is changed or sold or whatever, he doesn't have anything to fall back on.

Chairman Pruet: Good point.

Commissioner Anest: Puerto Vallarta came before us to expand the parking and they were contemplating adding onto the business and my concern is if they have this agreement with Puerto Vallarta, and they do come and expand, what is going to happen. I think we have to take that into consideration, because we do know that, that was a factor at one point, and there are big issues with parking.

Glenn Chalder: I think if the Commission were to keep the hearing open I think there are a couple of opportunities that come with that. Number one, the applicant has an opportunity to talk with his employees and explain to them why this is an issue and see if they can solve this internally through some other type of solution. I think it also gives the police department an opportunity to post the street for No Parking and begin to enforce it, and we can observe what the input of that is, with the input from the neighbors. I think it also gives the applicant the opportunity to get a written agreement with Puerto Vallarta and I think it's important that the applicant do some kind of parking analysis that shows that Puerto Vallarta and their uses are not going to combine, that Puerto Vallarta doesn't sign something not knowing what they are getting themselves into because there could be repercussions down the road if they were to expand, so I think, while it seems a simple request for the school, and if the school doesn't go, it could still be occupied by another retail tenant, so we are still going to face this issue, but long term we are going to have both the police department and the applicant trying to

solve this, and two weeks would probably give everybody an opportunity to come to a better understanding.

Chairman Pruet: Any further comments? Okay, it's my recommendation too to keep this open for another hearing and give the petitioner opportunities to work with the Mexican restaurant and let our police department handle that. So we are going to keep this open, is that the consensus, my fellow Commissioners? Okay. We're going to keep that open.

B. PETITION 02-12 – 3573 Berlin Turnpike at corner of Rowley Street, known as Maguire Sports Bar, Brown Realty LLC owner, contact James Brown 59 Cove Road, Lyme, CT 06371 request for Special Exception Section 3.19 restaurant use, PD Zone District.

Chairman Pruet: If the applicant or his representative could come forward to the podium and state your name and address for the record please?

Michael Barry: Good evening Mr. Chairman, Members of the Commission. My name is Michael Barry, I represent Brown Realty, LLC, the owner of the property. We're here tonight for a public hearing on a Special Exception, we're seeking to allow a restaurant to, seek a Special Exception to operate on the property. We also notice that you have under New Business for tonight, there is another application that was pending. It would be pretty hard to deal with this issue without at least addressing that, and just in a nutshell the restaurant that we are asking permission for a Special Exception to come in and operate is DiBella's. It's a subway shop, it's from New York. We do have a representative from that company who would explain how their operation works, why it would fit in to the existing neighborhood. The plan that you are seeing I think shows 152 parking spots, the plan that was initially approved by the Commission some time ago showed 149. If DiBella's was granted the Special Exception to operate I believe the regulations call for 156 parking spots. As the Commission knows under 6.1.1 E, the Commission can take into account if there is shared use of parking facilities, or joint use if businesses are operating at non-competing times. Also under Section J of that regulation the Commission may modify the requirements where circumstances relating to a particular exceptional nature of the uses are such that specific requirements for parking regulations do not apply. What's not on tonight for a public hearing is the request that a 5,000 plus foot mezzanine be added to the building where we are asking that this DiBella's go in. We're also asking that the Commission modify the parking requirements for the portion of this building. What we're asking is that a Bassett Furniture store go in. It's presently on the Berlin Turnpike, I believe it's losing its lease, they want to stay in town, and they request if they do occupy this space that there be a mezzanine. Because your regulations call for all retail space to have six parking spots per one thousand square feet, it wouldn't work if we kept it at the six per square foot. However, we do have a traffic engineer who is here tonight, Scott Hesketh will testify that typically in a furniture store no more than two spaces per one thousand square feet would be required, and he will tell you how he bases that. If that was the case, probably 122 parking spaces would be sufficient to accommodate the parking if Bassett did become a tenant with their mezzanine and the Commission did approve DiBella's as a restaurant. I guess with that I would just like to call up Ozzie Torres who is the engineer who prepared the site plan just to explain how he, the changes he did in fact make to the parking just to increase it to the 152 and then perhaps since Mr. Hesketh is here tonight, he could explain his analysis.

Ozzie Torres: Mr. Chairman, Members of the Commission, my name is Ozzie Torres, I'm a professional engineer in the State of Connecticut with offices in Wethersfield and as you know, I did the original site plan and we prepared it with 149 spaces. What we have done to provide that, we angled spaces in the rear, and we increased the parking with that, and also

since it comes over 150 we were required to add one more handicapped space because they go one for every 25 spaces, so all of those little changes brought the number up to 152 presently and that includes DiBella's Restaurant, the small retail space and the furniture store with the mezzanine comes to a total of required spaces of 129 if the space for the furniture store is allowed to use the 2 parking spaces for 1,000 square feet. That's how it was all calculated. Very simple, we didn't have much to change except for the forty-five degree spaces in the back of the building. Any questions, I'd be glad to answer them.

Chairman Pruet: Well, we can ask questions, you have a traffic study too? Any questions right now, Town Planner so far with the engineer or the attorney?

Glenn Chalder: No, I think the testimony here is kind of blended. I just ask the Commission to keep separate the Special Exception application which is for the restaurant itself and then the subsequent site plan modification is for the mezzanine, so I think it makes sense to talk about them both together, but they are going to act on them separately.

Chairman Pruet: Right, we'll hold our questions until you are completed. If you could just state your name for the record.

Scott Hesketh: Good evening, for the record, I'm Scott Hesketh, I'm a licensed engineer in the State of Connecticut, the firm of F.A. Hesketh and Associates. Our office has prepared a report dated April 11th 2012 addressed to James Brown. We were asked to take a look at the parking requirements or the parking generation of a furniture store and how that relates to the parking generation of a general retail facility. The site plan in front of you this evening proposed to change some of the general retail use to a furniture use and in order to, and add the restaurant use as well, in order to make sure that there is sufficient parking on the site to meet those uses, we took a look at some of the published data for furniture stores to determine what the typical rate for a furniture store would be. Looking at the Institute of Transportation Engineers, they publish a report on parking generation rates. Looking at that data does provide parking generation rates for furniture stores for the Saturday peak hour. The report indicates that the average parking generation is about one space per one thousand square feet with an eighty-fifth percentile rate of about 1.45. I think that's the right number, 1.45 spaces per thousand square feet, and that is, fifteen percent of the hours throughout the year will exceed that rate, so it's a pretty good rate to use. Since it doesn't provide weekday data, we thought an appropriate way to take a look at what the parking generation might be for a weekday, for the furniture store, we reviewed the average rates from a shopping center and compared them to the furniture store rates and basically a shopping center is typically three times the traffic of a furniture store, so we applied that rate differential and we determined that it is likely that during the Friday peak hour we might need one space on average, or 1.45 spaces during the eighty-fifth percentile so it's clear that the furniture stores have significantly less traffic, parking spaces than a general retail. 1.45 is kind of a strange number, so we decided that we would build in a little safety factor, we suggested to the applicant that they ask the Commission for a reduction to 2 parking spaces per one thousand square feet for the furniture portion of the site, and those are the calculations that Mr. Torres used up here in the top of the plan here, and based on that reduced rate of 2.0 for the furniture store and all of the other published rates that the town has for the general retail uses, the bank use, the restaurant uses, the calculation is that we would need 129 parking spaces. The plan as presented before you this evening has 156 spaces so we believe that the site would be sufficiently parked if this Commission would see fit to grant that waiver, or the reduction in parking rate for that furniture portion of the facility. It's only a three page report, I don't want to talk for 27 minutes on a three page report, you can probably read it faster than I can summarize it for you, but all of the data is presented

there. In addition, we have some other uses, we've got restaurant uses, furniture store uses, there's a coffee shop and a dinner type restaurant, so it's likely that those types of uses are going to have peak hours at differing times, so even though we built in a safety factor with the 2.0 rather than the 1.45 for the furniture store, some of the uses are, the times are off setting so there should be an ample supply of parking on the site if the Commission sees fit to make that reduction for us. If there are any specific questions regarding the parking, I'd be happy to address them at the appropriate time, and now I'll turn it back over to Attorney Barry.

Michael Barry: There were just a couple of things I wanted to add. A coffee shop is planned in the building in the front closest to the Berlin Turnpike to the north. With that, I think their hours of operation or their peak hours obviously would be earlier in the morning, it's my understanding that DiBella's would not be opening until eleven o'clock which would be somewhat past the peak hours of the coffee shop. As far as the regulations go, I think the purpose of this Section J 2.6.11 where it says that the regulations may be modified by the Commission where the circumstances relating to the particular and exceptional nature of the uses are such that the parking regulations do not apply. In a retail sales situation depending on the nature of the retail establishment, the parking really could vary significantly. I think obviously a CVS, or a drug store for example, there are going to be a lot more traffic, or persons per square foot than you would get in a furniture store. I think that with that clause J, I think that does give the Commission the authority to modify the parking requirements and also the Commission can, under Section 8 take into account that there would be different uses at non-competing times of operation. With that I would also just like to ask Greg Bargstrom to speak, he's a representative from DiBella's and I think he can explain their operation and why it would fit into the neighborhood.

Greg Bargstrom: Good evening, my name is Greg Bargstrom and I'm the Director of Real Estate for DiBella's subs. We are based out of Rochester New York and we have, today we have 27 locations, we're opening in Milford next week, which will be our first foray into Connecticut. This would be our second location if the Commission sees fit. What we do, we provide subs. I can hand out a brochure for anyone to take a look at. We have, when we first started this process Bassett was not involved at that point, so our feeling was that the parking was sufficient for our use just based on standard retail, not even a furniture store which is, you know, a lower retail so our feeling is that we will operate fine under these conditions. One thing, I just want to confirm, we do open at ten, our hours are ten to ten. We don't open at eleven. With that, I'll take any questions that the board might have.

Chairman Pruet: Is that a seven day a week operation, ten to ten?

Greg Bargstrom: Yes. We peak at lunch, eleven to one are our main hours. We get a little bump at dinner but eleven to one is where we do our business.

Chairman Pruet: What would be the seating capacity for tables and.....

Greg Bargstrom: Under the preliminary floor plan that we have has twenty-six table tops and eighty-four seats. Now there's, we don't have chairs, we have booths. In our preliminary plan we have nine seats around five top tables with chairs and then four that would tuck into a booth. Other than that, there are four seater booths and three seater booths and two seater booths. What we see is the fours usually end up with one or two, or three in them, let's say we have eighty-four seats, it's a little overstated I guess is the word.

Chairman Pruet: Now is it primarily, is it a lot of take out business?

Greg Bargstrom: Yes, we're doing about, over half of our business is people who come in, order a sub, take it with them, and leave. We do not serve alcohol so people are there fifteen, twenty minutes tops. Come in, have their sandwich, head back to work.

Chairman Pruet: Does that complete your presentation Attorney Barry?

Michael Barry: If there are not further questions.

Chairman Pruet: Well, we are going to start questions, and I want to make sure that you have an opportunity to complete your presentation.

Michael Barry: We have no other witnesses.

Chairman Pruet: Okay, comments from our Planner.

Glenn Chalder: Again, continuing our theme for tonight, parking I think is our key issue or consideration in terms of the uses here. I would agree that the parking demand for furniture stores is significantly less than a typical retailer so the introduction of that element which again is a separate application would offset the fact that we are going to have three restaurants at one site. I think that the three restaurants seem that they are configured for different times of day allows them to slot well together but there is no specific information in the record for that. What we have are some broad generalizations and terms of uses without specifics but my instincts and experience tell me that I think they could dovetail well. Should the furniture store elect not to go to this location, and it would be typical retail, I think the parking situation gets a little bit more complicated but again the dovetailing nature of the food uses could make it all work out so I think if you are likely to have any questions it would likely to be for Mr. Hesketh in terms of the parking element should it be a non-furniture use, and that should be considered by the Commission as possibly an alternative, whether today or in the future that that situation is a possibility. So again, I think three restaurants at this site is a very active application, but I think it could work.

Chairman Pruet: Questions, concerns?

Commissioner Hall: We have been using the term mezzanine. In case people don't know what they are talking about with mezzanine, can you explain what that is, and does it make that a two story building and the others not, or is it going to be the same configuration for the whole building.

Michael Berry: What it will be is that the height of the building won't change on the exterior or on the interior. It can also be recorded on the land records that if the property, premises were to be used for anything other than a furniture store, any future tenant would have to come back in and get approval, and there is a way to protect future tenants and it wouldn't put you in a situation where all of a sudden the furniture goes out and then another tenant comes in with a more intense use. This would just be particular to the furniture store.

Commissioner Anest: Okay, I just want to be sure that I understand this. You have 152 parking spaces shown on the site plan.

Michael Berry: That's correct.

Commissioner Anest: Okay. If it was in accordance with the regulations at full retail and not as a furniture store you would need 156.

Commissioner Aieta: No, you would need 190.

Michael Berry: You would need 190.

Commissioner Anest: Okay, the 156, is it that site deemed a furniture with the two spaces per one thousand square feet?

Michael Berry: No, that would be retail with no mezzanine I believe.

Commissioner Anest: Okay. But the 126 comes into play as a furniture store with the two to one thousand.

Michael Berry: I think Mr. Hesketh can explain.

Scott Hesketh: Again, Scott Hesketh for the record. Let me just look at my notes here. This particular site plan, as shown to you today including the mezzanine space, all of that space was calculated at the current rates as published in the zoning records, you would need 190 parking spaces. I think what the applicant is saying is that the mezzanine is going in because this is a furniture store. If it's not a furniture store, there is no mezzanine to be proposed at this particular time. We're asking for a reduction in parking regs for the furniture store portion of it from a 6.0 to a 2.0 rate, so a 2.0 rate as applied to the entire 15,000 plus square feet for the furniture store, we need 129 parking spaces and 152 are proposed on the plan so if you were to see fit to approve the reduction to 2.0 we have an excess of parking including the mezzanine space. At some future date if a different use were to come in, to use the furniture store in a manner different than this, I think we have stated that we would be willing to put something on the land records that when a future use comes in they would have to come back for another site plan approval. The Commission at that time would have the benefit of experience in watching how the site operates. If they see a number of parking problems with a lower parking rate then they can make a decision based on that. If their experience has been that the site has ample parking for the last ten or fifteen years and another use is coming in and they look at the type of use that is coming in and they say, well that is a use which also has relatively low parking rates or, has very high parking rates but seventy-five percent of the space typically goes unused at the site, the Commission would have the flexibility at that time to say yes, we can grant site plan approval, or maybe it's a thousand square feet too big, you know, have a larger storage area perhaps, and therefore get back into a parking ratio that makes sense for the Commission at that time.

Commissioner Woods: I'm just trying to figure out, the mezzanine level basically is about 5000 square feet, so if you are going by that six parking spots per thousand that's the thirty spaces, so it kind of skews the numbers a little bit, is that safe to say because it's not necessarily bringing in any more business, it's more retail space in that upper level?

Scott Hesketh: Well, it's probably got some office space, I haven't looked at the plans, typically it's office space, it's a conference room, it's a dining area for the employees, you know, furniture stores, we've all been in them. If you go to Target, you've got aisle upon aisle upon aisle of merchandise stacked eight feet high. You go to a furniture store you've got a bed set up over here with night stands and lamps on them, so one item is displayed in 150 square feet of floor area, so you need lots of floor area to show not too much stuff, so if they can get the office space up above it gives them a little more floor area down below and so it's not a very intensely used development, kind of have a handful of employees at most, a handful of customers an hour perhaps so the parking ratios are relatively low. That's the theory behind the reduction to the 2.0.

Chairman Pruet: Any other Commissioner comments at this time before we open it up?

Commissioner Camerota: I just want to confirm that the way that you got to the 129 was to reduce the parking per square foot at the furniture location to two spaces.

Michael Berry: That's correct.

Commissioner Camerota: It doesn't take into consideration the concept of sharing of spaces between different parties.

Michael Berry: There is no shared usage in that calculation.

Commissioner Camerota: Okay.

Michael Berry: So if the Commission thinks that shared usage makes additional sense then we have much more room for parking than is shown on the plans.

Chairman Pruet: Additional Commissioner comments before we open it to the public?

Commissioner Aieta: One question. I'd like to know how long the lease would be with Bassett Furniture, just to get an idea what kind of time period we are talking about. This is very unusual for this Commission to take, our regulations are pretty specific as to how to calculate parking for this type of an operation, and you are taking an assumption because it is a furniture store, these are all assumed data. I'd like to see the data and how they came to it and be able to study the plan with the data before we go any further with the vote on this.

Chairman Pruet: Additional comments before I turn it over to the public?

Michael Berry: Just, my last comment is this. If the furniture store did not go in, and we are really here for the public hearing on whether DiBella's should go in, I just want to add I think DiBella's would be a good fit for the area. I don't think it would have any adverse impact on the neighborhood. If you go to the Berlin side there's a Taco Bell, Pep Boys, going the other way, it's all large scale retail. I think it would fit in, there's no residential area that would require a buffer, so on that basis I think it would fit. You take the fact that there is some ability for shared parking you know with the Starbucks, the coffee shop in the front with primarily morning hours, they are more of a lunch place, dinner place, I think even though it doesn't meet the 155 spots required, I believe the 152 would be close enough, given Section J of the regulations which I have spoken, so we would ask that that be approved for the Special Exception.

Chairman Pruet: Thank you. Okay. At this time, this is a public hearing, I'd like to call upon members of the public who wish to speak in favor of this petition to come forward, state your name for the record please, and address.

Scott Hesketh: Could I take one second. I do have some printouts from the ITE parking generation which is not part of the report and I would be happy to give them to the Commission so they can see where the numbers came from that are referenced in the text.

Chairman Pruet: Okay.

Bill Cotter, 27 Timber Lane, Newington: I've been a life long resident of Newington and I've been up and down that highway for the last five decades and I watched the job that you people have done here and it's really remarkable, the industry that is out there. I think this

plan is a smart development plan. It's a major improvement over what is presently there. It would most certainly help the tax base and I think it's important to point out that Bassett is going to lose its lease and that we get two for one here in that they are able to move into this development here and conduct business on the Berlin Turnpike which is certainly at a premium. I think it is a good plan, I think it certainly is an improvement as I said. Thank you.

Chairman Pruet: Thank you Mr. Cotter. Additional feedback from the public?

John Williams: I'm a property owner on the Berlin Turnpike, 3311 Berlin Turnpike and also 45 Costello Road in Newington. A lot of statistics were thrown out about parking and I would just like to point some reality or just observations. When you drive up and down the Berlin Turnpike you pass by Sleepy's, you pass by Laz-E-Boys, you pass by Bond Dinettes, Bob's Furniture, Bedding Barn and if you look at all of their parking lots, you'll look at, well tonight I passed by Laz-E-Boy, there were two cars out in front which is well below the 2.0 per thousand square feet of parking requirements, or parking estimates for a furniture store. Now I know that is not peak time, but you go by any time during the day and it's just about the same type of situation. Then you go by something like Raymour and Flannigan and Sleep Center, there is a horrendous waste of parking lot, asphalt, heat, run off water and substantial addition of heat to the atmosphere and what not. You go by Raymour and Flannigan at any time during the day and there is probably fifty, sixty thousand square feet there, and there's fifteen cars out in front, maximum. I think you have to look at reality when you are sort of looking at some of these situations. Being five short on a parking area like what they are trying to develop here, I think is well within the means of the plans. Again, I'm not totally familiar with it, but I do know the reality of some of the establishments on the Berlin Turnpike and you know, if you have a furniture store, that's not a Wal-Mart, it's not a Lowe's and all you have to do is just go by and see what they are looking at. That's my comment.

Chairman Pruet: Thank you Mr. Williams. Additional comments from the public speaking on behalf of this petition?

Kevin Madison 112 Eagle Drive, Newington: I just wanted to make a comment. I think with the economic situation that we are facing in this town, I think this is a great use of space and it would be a shame to turn away any taxpayer, tax revenue that we get right now. I think it's a great idea.

Chairman Pruet: Thank you. From the public again, in favor of this petition?

Rose Lyons, 46 Elton Drive: I've been before you before regarding some other issues with this piece of property and I would like to reiterate what I have said before that the changes that are being proposed in my opinion are good for this town. I think we are getting a little off track here thinking about Bassett and talking about different things like that, I'm thinking right now what is before us is about the restaurant and about the parking. That restaurant seems like it would be a good fit for that area, the parking I'm not quite sure of the calculations, you would know better than I, but I think that that site is going to be as we have said before, a gateway to Newington and we would like to see as much as we can on the Berlin Turnpike and I would hope that you would approve this application. Thank you.

Chairman Pruet: Any further input from the public on this petition? Speaking in favor?

Robert Shields, School House Road, Newington: I also have been traveling the Berlin Turnpike for over fifty years, I think gas was twenty-four cents a gallon and there was a milk machine where Mortensen's Diner is. It's been up and down, and up and down, and I think this is a good plan to keep it going up on the Berlin Turnpike. That's all I have to say.

Chairman Pruet: Thank you. Further comment from the public on this petition, in favor of it? Comments against this petition?

James Brown: Mr. Chairman, Dan Arthur was going to try to make it here this evening. In lieu of that he sent a letter. They are the third biggest tax payer in the town so I consider it fairly relevant, so if you can pass this around to the rest of the Commission?

Chairman Pruet: Okay, I'll read it into the record. "To Whom it May Concern: Myself, Dan Arthur, President of Stew Leonard's in Newington and the Stew Leonard's management team look very favorably upon the current project at the corner of the Berlin Turnpike and Rowley Street. Any and all redevelopment of this parcel is viewed by us as a major improvement to our business environment. We feel that the proposed development and the cutting edge tenants will do nothing but enhance the demographics of our area. We reviewed the latest set of plans with Mr. Brown on April 10, 2012 and we would like to extend our full support of his undertaking. Please feel free to contact me, at the Stew Leonard's office. Thank you." Dan Arthur, President, Stew Leonard's Newington.

Any other favorable comments on this petition? Now entertain comments from the public against the petition. Anybody? Okay. Any further comments from the Commission at this time as to how we would like to handle this petition?

Commissioner Sobieski: Move it to Old Business so we can vote on it tonight?

Chairman Pruet: Anybody else, comments?

Commissioner Aieta: You don't have enough information to vote on this tonight. I'm looking at, I come in tonight to this meeting, I sit down, and I find draft motions for every application here when we didn't even hear them. You have information that is not complete. I think this Commission should take a good look at it, look at the parking, make sure that what you are getting is what you want before you vote on it tonight.

Chairman Pruet: Any other comments from the Commission? Okay, what is your pleasure on handling this petition tonight? I need some input?

Commissioner Woods: I agree with Stanley, move it to Old Business and vote on it tonight.

Chairman Pruet: Okay, let me go around the room.

Commissioner Camerota: I don't think we are going to get much more information, I think it could be moved to Old Business to at least discuss it and then we probably could vote on it tonight. I don't know what else we are going to get. I think it is what it is.

Commissioner Anest: I concur with the other previous three comments, move it to Old Business for further discussion.

Commissioner Hall: I would prefer to close it, I don't like voting the same night that we hear a petition. I've said this in the past, and I'm going to stick to that. I just think that the same night that we vote on something, there may be other things that come to mind between now and the next meeting, and unless there is some kind of a push, a deadline to be met, I don't like moving things to Old Business the same night to vote, so I would not be in favor of that.

Chairman Pruet: Okay. So the consensus is we will close it for a public hearing and we will discuss it under Old Business.

C. PETITION 03-12 – 3066 Berlin Turnpike, Sphinx Shriners AONMS owner and applicant, contact Jean P. Maheu request for Special Exception Section 3.2.8 Charitable and Civic Event Carnival, June 20-23, 2012, PD Zone District.

Chairman Pruet: The petitioner is here?

Chris Schroeder: Good evening, I'm Chris Schroeder, representing Sphinx Shriners for the approval for the Special Exception for a carnival. I did meet with Chief Mulhall from the Police Department, worked out all the details, the areas that he was concerned in. We have met with the adjacent property owners from Grantmoor, Wal-Mart and Laz-E-Boy and have gotten written approval to use their additional parking spaces. We have identified the site, you might want to pass that around, that would, shows our property line, and the area that we plan to use for a carnival. That would leave us 86 parking spaces in front of the building on the turnpike side, and 85 spaces on the Deming Road parking lot side, right along our property. That's in addition to the spaces at Wal-Mart and the Grantmoor. We have copies of the parking arrangements, our insurance certificate, and the only thing we haven't done is contact the Health Department because we are not sure exactly what food permits will be required. I don't know if there are any other questions.

Chairman Pruet: Will the rides be set up on the grassy area where the golf course is? I'm not too sure.....

Unidentified Speaker: No, we won't be using the golf course. It's from the top of the ridge and the rest of the building, about 86,000 square feet there, and minus the building, about 52,000 square feet of the area which is outlined in the, with the yellow and orange and parking would be around that.

Chairman Pruet: Okay, comments from staff on this project.

Glenn Chalder: This is the first time that we are seeing the drawings here so I do have some questions. So, as I understand it, the rides would be set up around the current building, is that correct.

Unidentified Speaker: Within the marked area there. The yellow and orange.

Glenn Chalder: So in terms of carnival parking the front area of the parking lot that you are showing here, 85 spaces. If there are additional spaces that would be at Laz-E-Boy?

Chris Schroeder: At the Grantmoor or Wal-Mart.

Glenn Chalder: And the only access through, so if traffic comes on Deming and it's full, they would be directed back around the other way?

Unidentified Speaker: Right. We have not asked although they have offered at the Grantmoor parking spaces, we have only included the Laz-E-Boy and our own parking.

Chairman Pruet: I assume there will be traffic control, either by police or private security?

Chris Schroeder: Well, we will hire whatever police officers are necessary, but the cycle unit and the motor patrol units will provide parking direction and crowd control for the event, so if the parking lots are full, they'll be directed to other areas.

Chairman Pruet: And all the permits have been submitted to the Building Department?

Chris Schroeder: Nothing yet. We're waiting for approval. This is coming up in June so we are obviously anxious to get approval so we can move forward.

Glenn Chalder: Did you indicate that you have a letter from Laz-E-Boy or from Grantmoor in terms of.....

Chris Schroeder: Yes.

Glenn Chalder: If we could have those for the record, and the insurance certificate, that would be great. Continuing the theme tonight, parking, I think the delicate issue here, coordination with the police department is important because how people will know where to go to park for this is going to be somewhat unique. Originally I had thought that the rides would be on sort of the top of the hill where the parking area and the building is, and most of the houses here are actually immediately across from the Shriners are actually kind of set back a little bit, and then over, I think it's Barn Hill. I thought what would happen, the rides would be here, and the parking would be in the meadows but now I see the parking arrangement, the only concern that I really have is the coordination that if I'm in a car and I come around Deming and I get pushed away or shunted I'm either going to be going north or south and kind of loop back, so it's actually a delicate parking arrangement and I think the coordination with the police, as you know the Shriners have done special events before. They did the Haunted House I think the records indicate for about a month, and they did a car show which was for one day with a rain date type of event, so this is a new type of arrangement here in terms of a carnival facility for four days till ten o'clock at night. It's not uncommon for this to happen at this type of facility and it's a way for them to support their overall mission and the most delicate aspect that I can foresee for this approach is going to be the parking and the circulation so the level of coordination here would need to be carefully thought out and monitored so we could understand in the future this type of event, whether or not this is the best location or site for that.

Chairman Pruet: Okay, Commissioner comments on this?

Commissioner Sobieski: As long as they take the proper permits out and coordinate everything with the town, I don't see a problem.

Commissioner Aieta: Mr. Chairman, this is the type of application that you should be moving to Old Business because there is a time restraint on it and its pretty cut and dried, what they are trying to do. These are the types of things that you should be considering moving to Old Business and acting on in a timely manner, some of the other things that we talked about I don't think we should be moving that quickly on.

Chairman Pruet: Additional comments? We're going to open this up for the public. Again, this is a public hearing, anybody from the public wishing to speak in favor of this petition?

Rose Lyons, 46 Elton Drive, Newington: I would like to see you give approval to this event tonight. I just have one thought in mind as I was sitting here and I heard I believe from Commissioner Hall and some other people at various other meetings complain about the trash along the back area, Deming Road and places there. I'm just wondering, with a carnival, there seems to be a lot of liter and things like that. I'm hoping that someone is going to go along the town road and make sure that things are cleaned up after the event is over. That is the only thought that I had sitting there. Other than that, good luck to you. Hope you make a lot of money.

Chairman Pruet: Anybody else from the public wishing to speak?

Jean Maheu: Commissioner, I'm Jean Maheu, I'm the potentate over at the Shrine. We have over 1300 members and I will make sure that the road, Deming Road after this event is totally cleaned up so you can take our word for that. I thank you very much.

Chairman Pruet: Thank you. Anybody else from the public wishing to speak for this petition? Anybody wishing to speak against this petition? There is an opportunity for the applicant to summarize any rebuttal on any comments. I think the consensus that I'm feeling is that we could close this petition and move it to Old Business. Is that the consensus of the Commission? Okay, we are going to do that and move it to Old Business.

D. PETITION 04-12 – 2095 Berlin Turnpike, Fat & Happy Restaurant, Callahan Realty LLC owner, F & H Group LLC 2095 Berlin Turnpike applicant, request for Special Exception Section 3.15.5 for all year dining, outdoor live music, and tent covering for outdoor patio, B-BT Zone District.

Chairman Pruet: Is the petitioner here? Come forward sir and state your name and address for the record please.

Robin Mayo, 3 Pine, Ellington, Connecticut: I'm here to speak for our partners. Basically what we're looking to do is have outdoor entertainment, acoustic guitar, just for nice light dining outside for a nice sunset, into the night, a cool breeze. We are also asking for a tent, not a fixed tent at this point, just a tent that we can put up, like an event tent, so if we have an event out there, and it rains, we've got coverage. Nothing that would be fixed completely. We also are asking that the entertainment could be from approximately 6:00 in the evening till 11:00 at night. It's not a large band, it's about three people at the most and it's acoustical guitar and it's very quiet, very mellow. We didn't know that we were supposed to ask for this last year when we built the patio, so.....

Chairman Pruet: Okay. Anything else on this? You mentioned outdoor dining, is that for all year round?

Robin Mayo: We've had that, when it's snowing we are not going to be out there, we already do that, I think that we had outdoor dining and that was already approved. I think we were talking about adding the tent if we needed to for a dance or things of that nature.

Chairman Pruet: So it won't be a permanent tent with heaters and this and that?

Robin Mayo: No, and if we do do that, we know to come back to you. If we do that someday, down the road. We don't really have a party room, someone wants to have an event, they want to have the outdoor patio, we want to make sure it is covered.

Chairman Pruet: Comments from our acting Town Planner?

Glenn Chalder: We're breaking our theme of parking, and the reason that, when the Commission approved this application originally for the construction of the patio an analysis was done of parking and there is plenty of parking at the site for a restaurant based on the town's parking ratios, etc. For the safety of the patio, the Commission required that the parking adjacent to the patio be covered from angled to parallel to provide for a safe travel lane, etc. The patio has been constructed, the retaining wall is in place and separates, so it's an appropriate area for the introduction of a patio in that kind of arrangement. It is on the south side of the building so it's going to get direct sunlight, so the introduction of a canopy or

covering of some kind would make it usable on drizzly and other kind of days. I think the only concerns that we have from a staff perspective overall is the petition requests year round dining and what that would mean in terms of construction of the patio covering I guess we will call it, and then the nature of the heating equipment. I'm not that familiar with the requirements of the building code or the fire code but I know enough to know that there could be situations where the interplay between those two things, depending on how they elected to use the space would be the type of thing that the applicant should really come back to the Building Department and the Fire Marshal to work that out as their plans are clear. So I recommend, if you will, that the Commission consider advising the applicant of the need to do that overall. I do think that the outdoor entertainment would enhance the dining experience there. It's a location on the Berlin Turnpike so it's fairly busy, it's adjacent to a hotel, the fact that the applicant has indicated that it's acoustic music means that there's likely to be very little sound impact if you will from the nature of this activity. If it was to be used for parties or other things I just think it might be in the Commission's interest if you have any concern about day of week, hour of day, or month of year, or level of amplification this would be an appropriate time to add those considerations in as part of this review.

Robin Mayo: We might have it during the day like on a weekend, if there is a party for early football, or baseball game or someone wants to have an event outside. We might have the music from you know, noon to the middle of the afternoon or something of that nature also.

Glenn Chalder: Mr. Chair, I do have one other thing. I have spoken with the Chief of Police about this, Newington has a noise ordinance and the police department are the people who enforce them. The police felt that they could manage this kind of situation working with them to avoid any negative situations. They would prefer not to go out there with noise meters and monitor and do the other stuff, but again, they have had experience with this and they felt that they could manage this kind of situation.

Chairman Pruet: By acoustical guitars there would be no electronic equipment, amplifiers, etc.?

Robin Mayo: No amplifiers, but there are speakers and if you have been to our restaurant we play indoor already and you can sit literally this close to this young lady and you can talk just normal. It's not like its blaring, the big loud speaker thing.

Chairman Pruet: Commissioner comments, concerns on this petition?

Commissioner Camerota: Are you using heaters on the patio now?

Robin Mayo: No.

Commissioner Camerota: Okay, do you plan to, or

Robin Mayo: We absolutely plan to use those portable heaters but that would not be with the dance and things of that nature, it would be if it's a cool night or something of that nature. Just like you see at Azteca, and other places as well. Not that we like them!

Chairman Pruet: Further questions?

Commissioner Aieta: A question for the Planner. You checked the parking requirements for the restaurant and the number of spaces that they have now?

Glenn Chalder: I reviewed the file for the Commission's approval last year of the patio so this doesn't change the number of tables on the patio, number of chairs or anything, it would just perhaps increase the opportunities for its use, weather and otherwise, but there's ample parking.

Commissioner Aieta: This does not change the classification from a restaurant to a different type of classification for the counting of the, there's different formulas for different uses, restaurants, cabarets, bars, there's different calculations, this will not change?

Glenn Chalder: I did not feel so given the nature of the application.

Commissioner Aieta: I'm not challenging, I'm just asking the question.

Glenn Chalder: Good question.

Chairman Pruet: Okay, we are going to open this up to the public, see what they have to say, anybody from the public wish to speak in favor of this petition? Come forward and state your name and address for the record.

Robert Moreno, Plaza Azteca Mexican Restaurant, 3260 Berlin Turnpike: Operating a Mexican Restaurant on the Berlin Turnpike with a twenty seat patio, I'm very familiar with what he is looking to do, and I can attest that everything that he said is in line with the acoustic guitar levels. We do something very similar there and it's very adequate for the environment and the live music does provide a nice ambience so it's definitely in compliance with everything that he has spoken of, so that's fine.

Chairman Pruet: Anybody else from the public wishing to speak on behalf of this? Anybody from the public wishing to speak against this petition? Seeing none.....

Glenn Chalder: Just a couple of quick questions, are there any sensitive days of the week that you wanted to, all days of week, Fridays, Saturdays,

Robin Mayo: Mainly we would do Thursday through Sunday. There might be a time when someone wants to have a party on a Monday night but I don't foresee that.

Glenn Chalder: And I think you indicated six to eleven?

Robin Mayo: Yeah, and again, there might be times when we do it during the weekend, so we'd love to have on the weekends from say twelve to eleven. Not that we could perceive having the band play that long.

Chairman Pruet: No other comments from the public? Commission concerns on this petition? Close it and move it forward?

Commissioner Anest: I just have a question. I know when we approved the Brickhouse, and I know it's in the town center, but we said ten o'clock, did we use, is the noise ordinance ten o'clock?

Glenn Chalder: I don't know, I'm not that familiar with the provisions. I spoke with the Police Chief about the noise ordinance but didn't ask him the hours of operation.

Commissioner Anest: I believe it's ten o'clock. I know he's asking for eleven so it's just something to take into consideration.

Chairman Pruet: Other Commissioner comments?

Commissioner Hall: I think probably in the town center I would agree with ten, because it tends to be a quieter area, but between the traffic on the Berlin Turnpike and other things happening up there, I don't know that eleven would be that outrageous.

Commissioner Aieta: Just real quick for the Planner, when, in your review do you take a look at where the nearest residences were and they are probably outside of the.....

Glenn Chalder: In Ed's office we found this, it doesn't get much better than this in terms of explaining. So the restaurant is located right here, and the patio is located right there, and so what we have is the ridge, etc., so the closest residences are here and there is quite a topographic.....

Commissioner Aieta: There is nothing to the north?

Commissioner Hall: Siesta Motel.

Glenn Chalder: There is a motel there, so in terms of noise impact or whatever, as Commissioner Hall indicated, we've got the Berlin Turnpike. We did send a notification to Wethersfield because it's adjacent to the town boundary and they had an opportunity to comment, no comments have been received, but across is commercial use and actually wetlands area and it's quite a distance before you get to Ridge Road and the houses. The closest houses are here, and perhaps you can tell from the topo lines that again there is a ridge formation and then the opening in the ridge this way.

Chairman Pruet: So is it the consensus of the Commission to close this and move it to Old Business? Okay, we'll do that.

E. PETITION 06-12 – 3260 Berlin Turnpike, Plaza Azteca Restaurant applicant, 3260 Berlin Turnpike LLC 5 Saddle Lane, Wallingford, CT owner, contact Robert Moreno, request for Special Exception Section 3.19.1 for outdoor event, PD Zone District.

Chairman Pruet: Sir, if you could just come forward again and just state your name and address for the record.

Robert Moreno, Plaza Azteca, 3260 Berlin Turnpike: I do have some paperwork here I would like to hand out to the Commissioners. Basically this is the site with the proposed temporary fence and a letter for parking, e-mails with Chief Mulhall. Basically all we would like to do is, we have about eight years experience with Cinco de Mayo celebrations. It can get a little hectic. We're a pretty busy restaurant. Every Friday and Saturday we have a one hour wait and on Cinco de Mayo, we have about an eight hour wait. So basically I do not wish, I like the flow of traffic and in the restaurant and I do not want people to wait without any entertainment or just to be standing around and not enjoy their experience. So we would like to open up a lawn area, it's basically just a small portion of the front lawn, and have a temporary, pretty much an orange construction fence. It's only going to be for twelve hours of the day, just to basically be able to serve food and alcohol outside. We're not going to go past ten, eleven o'clock. Once pretty much we get through the rush we'll have people come inside and wrap it all up. Pretty basic, pretty simple. My main concern is our waiting area inside, I don't want to have that full of people, have a crowd control problem. Basically this is for crowd control, want to have an easy flow in and out and we have already briefed our staff and our hostesses to make sure that is what we are going to do. We have a pager system so

once the table or whatever is ready they can easily be paged, it's about a half mile radius. I have spoken with our neighbors, Lowe's and they have given me a letter and I have spoken with Chief Mulhall, and we are planning to hire a one to two man detail for the event.

Chairman Pruet: So in this area, highlighted yellow, there will be no eating, it's just a holding area, is that what.....

Robert Moreno: Actually there would be food served, simple appetizers, maybe a stick of chicken, rotisserie chicken or something, something simple, just to hold people over.

Chairman Pruet: Okay.

Commissioner Hall: Could we see where that is, we don't know where.....

Glenn Chalder: Any other activities in the, tables, chairs, tents,

Robert Moreno: We are not going to have anything that is going to require electricity, or tenting. We may have a couple of simple canopies, gazebos, ten by ten, just for coverage, obviously if it rains we are not going to be prepared for that. If it does rain it will put a damper on the situation, but we don't want to take the added cost of putting in tents with electricity because it's a one day event, it's on a Saturday. If it was going to be on a Wednesday or a weekday, it would make more sense because we would have that many more additional people, but on a Saturday we are already going to be busy, so we're trying to make the cost as minimal as possible and our primary concern is crowd control.

Glenn Chalder: Any outdoor entertainment or anything like that, noise related?

Robert Moreno: We may have a mariachi, but that will be during peak time, from six to eight. They already do play on the patio, we already have license for that, so it is not going to be in conjunction with anything we will be doing, we already do.

Glenn Chalder: Did you indicate alcohol service outside?

Robert Moreno: We may be serving some beverages; we have a little Marguerita machine, portable machine, it's called Marguerita on tap. We don't want to have anything crazy, everything will be wrist banded, it will be all over 21 and there will be a detail with one entry and one exit access, not including the emergency exists of course.

Glenn Chalder: I think the only thing the Planning and Zoning Commission can approve this type of outdoor event as part of their activity but I see you have received a response from the Police Department in terms of coordinating with them, which is great, there may be other implications for your liquor permit or the Health Department, etc. and you would have to undertake those separately.

Robert Moreno: I understand.

Chairman Pruet: Any other concerns? Okay, Commissioner comments?

Commissioner Aieta: If this is a very successful event, you're right on the Berlin Turnpike, do you have provisions for restoration of the lawn after the event is over?

Robert Moreno: Yes, actually we do, we've already had about three quotes in. We are planning to do a complete beautification of the area. That has already been addressed.

Chairman Pruet: Anyone from the public wishing to speak in favor of the petition? Anybody from the public wishing to speak against this petition? What's your pleasure on this? Close it and move it to Old Business, okay.

Commissioner Hall: The fifth of May is not too far away.

Chairman Pruet: Exactly.

III. **PUBLIC PARTICIPATION** (relative to items not listed on the Agenda-each speaker limited to two minutes)

Rose Lyons, 46 Elton Drive: I've come before you before and asked that the Zoning Enforcement Officer put a summary of the complaints on the computer, the web site and I think they are on there now, up until probably last month, and he did call and talk to me about a concern that I had and we had a nice conversation for about five minutes and it looks like probably after seven or eight years of trying to get one individual to be compliant he has been successful, and I just wanted to thank him, and let you know that he has taken care of the situation. Thank you.

Chairman Pruet: Thank you. Anyone else from the public wishing to speak?

IV. **MINUTES**

March 15, 2012 – Regular Meeting

Commissioner Sobieski moved that the minutes of the March 15, 2012 Regular Meeting be accepted. The motion was seconded by Commissioner Woods. The vote was unanimously in favor of the motion, with seven voting YES.

V. **COMMUNICATIONS AND REPORTS**

Glenn Chalder: I have been keeping track and monitoring the correspondence that comes in until the new Planner gets on board. There is nothing imminent and important so we're going to hand all that to Craig and if there is any additional reports they will come before the Commission at your next meeting.

VI. **NEW BUSINESS**

A. **PETITION 05-12 – 3573 Berlin Turnpike at corner of Rowley Street, known as Maguire Sports Bar, Brown Realty LLC owner contact James Brown 59 Cover Road, Lyme, CT 06371, Site Development Plan Section 3.18 add 5,000 sq. ft. mezzanine, PD Zone District.**

Chairman Pruet: Is the petitioner present? Again, state your name and address for the record please?

Michael Berry, 1177 Silas Deane Highway, Wethersfield, Connecticut: Representing Brown Realty, LLC. What we are requesting is modification of the parking as well as the interior of the building to have the mezzanine which was discussed during the public hearing, if the Commission would permit it, I would like to incorporate the testimony and evidence of that into this matter, if you see fit. Just briefly, what we are asking, rather than figure the parking on six spaces for, which the regulations call for in all retail, we're asking that it be for two for both the ground floor and the mezzanine. We have a letter from Scott Hesketh, we also have

his testimony stating that really two spaces would be much more appropriate for a furniture store as opposed to some higher volume retail establishment. Again, we believe that Section J of 6.1.1 gives the Commission the authority to modify the parking where circumstances related to the peculiar and exceptional nature of the uses are such that the requirements of the parking regulations do not apply. Again it's our belief that a furniture store such as Bassett which has been in town for many years is not a big traffic generator. It's primarily a display area, people come in, get to look at each item because by nature of what they are selling, they're larger objects, there are more of them, it requires a great deal of retail space as opposed to a grocery store which is selling smaller items and which they can provide more of. It's my understanding that Bassett's does not store it's furniture there, people come in, they look, see what they want, place the order and it gets shipped from another location for the most part. So it's not an issue of trucks coming in, things of that nature. Just on a pure parking level, I believe it would fit in, and I believe, I think if it was kept traditional retail under the six, with some use, other than a furniture store, there would probably be less parking spots under that scenario, then having Bassett in because it's as Mr. Hesketh said, we would probably only require 129 parking spaces if it was used as a furniture showroom as opposed to some other retail use. I realize that there will always be a concern as what happens if they don't stay. What happens if they move out, and our plan is centered to a long term lease with at least ten years, hopefully with many options. It's been a long established company. They obviously want to stay in Newington so we are hopeful that it would never be an issue with them moving. They are a strong stable company. If they did move however, you know, whether a short period of time, or ten years, I believe if something was recorded in the land records that stated any person wishing to rent it for a use other than a furniture showroom would have to come back to this Commission. It would protect anyone, someone coming in at a different time with different Commission members or different staff that would be out there for them, and I believe anyone renting that much square feet would probably be a sophisticated business who would check the land records. I think it would also be in the town file when they went to pull a building permit, whether or not they could do that, so I don't think it would be an issue that somehow at a later date would come back and turn it into a grocery store or something of that nature, I don't think that is going to happen. So based on that we would ask that the Commission modify the parking requirement under 6.1.1 J and also take into account that, that really doesn't have to do with this furniture store, that if the Commission saw fit to approve the Special Exception for DiBella's, it would be that cross use where you might have a Starbucks in front whose peak hours are in the morning, whereas one of the other restaurants, DiBella's or Chipolte's would be more dinner or lunch, so based on that we would ask the Commission to approve that modification. If there are any specific questions about it, Mr. Torres is still here, Mr. Hesketh is still here.

Chairman Pruet: Thank you. Glenn, from the town, your comments please?

Glenn Chalder: I think again the theme of this evening. The introduction of a mezzanine is really a novel situation. I can't think of any precedence in my professional career that anything like this has ever been seen before, but it's really the only use that would cause a situation to increase the floor area by about fifty percent and have the actual parking demand go down in terms of retail, so furniture retailers are known to be low parking generators. The important thing here for the Commission though is to think about what could happen at some time in the future if the space were to be reoccupied or reused. I think it's important as the applicant indicated that notifications either be placed on the land records, large notes placed on the site plans, in the files, on the floor plans, etc. if the Commission was to move in this direction, indicating that it's use is limited to a furniture retailer. That's a pretty strict limitation on the part of the Commission but it's really the only way to make it work, and if the use were to be changed in the future, I would recommend the Commission consider requiring that any change to a use other than a furniture retailer either come back here for your approval so you

can consider it, or result in the removal of the mezzanine. Again, it's a very unusual situation but it could be constructed in a way to be removed. So, the questions where you feel comfortable in, for future commissions, whether its fifteen or twenty years in the future, in terms of what might happen here, but the perfect storm of events would be a situation with active restaurants, three active restaurants at the site and a non-furniture retailer I think there is a possibility that there could not be enough parking at that site and so to have some measure of control in place, Bassett is a great tenant in town, they've been here, a good use on the Berlin Turnpike, to keep them in town would be a great asset for the community, but having some situation that should a furniture retailer not happen here the Commission has what they consider to be adequate controls in place. It's something I would urge you to consider.

Chairman Pruet: Thank you. Commissioner comments on this petition?

Commissioner Hall: Correct me if I'm wrong, I think this is the way that this is positioned on the lot, so it is north to south, correct?

Michael Berry: Yeah.

Commissioner Hall: It's north to south, this way. Then this is north?

Commissioner Woods: North would be I believe this way.

Commissioner Hall: That's what I am thinking.

Michael Berry: The front door in the parking lot would be on this side.

Commissioner Hall: East, right, and this is west, where Michael's fingers are, that is west. Okay, my question is, with this new parking scheme we have angled where your fingers are, do you have a rear entrance so that people can come in without having to walk all the way around the building to get to the front door?

Michael Berry: That I am not sure of, I don't believe that that is shown on this plan.

Commissioner Anest: Is that only for employees?

Commissioner Hall: Otherwise you are going to have people parking up here, walking around to the front.....

Michael Berry: I believe in looking at it, on this plan it would appear that it is just an employee entrance and this is not, I don't think anything final, just a preliminary sketch. I would like to point out to the Commission that the plan, as approved does have the parking spaces in back there, all we are really doing is changing the schematics from.....

Commissioner Hall: I understand that, but are you giving people the right to go into the building, or do they have to walk all the way around to get to the front door? Will they even use those if they can't have easy access to the property?

Michael Berry: Just to answer that, I don't know if Bassett would put a door in the back, I doubt that the restaurant would, however.....

Commissioner Hall: Well actually it would be the side of the restaurant, wouldn't it?

Michael Berry: Right. I think people would drive around back because of the traffic flow. If you look at the traffic pattern, that would be a way out is to drive behind the building so I don't think it's a case where people are going to say, well, we didn't even know there were parking spots behind the building, you could actually see the spots. It also would probably be an excellent place for employee parking as opposed to the actual front of the store facing the Berlin Turnpike.

Commissioner Hall: Or Rowley.

Michael Berry: Or Rowley.

Commissioner Camerota: Just because you mentioned this idea of shared parking again, I want to confirm that the calculations of 129 spaces didn't take into consideration the shared parking, it was really a calculation based on going to two parking spaces per thousand square feet.

Michael Berry: That's correct. I think the reason we raised the shared parking issue was primarily if Bassett didn't go in, we would still like the Special Exception for DiBella's and part of the argument for that would be even though it's short a couple spots there is the cross use. That was the point of the argument. As far as this is concerned, you are correct, that wasn't part of the calculations.

Commissioner Camerota: And just to follow up on that, for DiBella's, if Bassett doesn't go in, then you are not going to have the mezzanine, so the number of parking spaces that you would really need is 156?

Michael Berry: Correct.

Commissioner Aieta: Question for the Planner. Have you reviewed the, because of the new layout and the new parking layout, have you reviewed it as far as snow removal? The site, for snow removal or snow storage?

Glenn Chalder: There is no material change in the site plan.....

Commissioner Aieta: They didn't have snow storage in their original plan, I was wondering if there was provisions for that.

Glenn Chalder: I did not look at this site plan with regard to that. I was cognizant of the fact that the Commission had approved the site plan before so what we were really doing here was reconfiguring the tenant spaces and if the adequacy of the number of spaces which I think was the key issue, if snow storage is a concern of the Commission we could.....

Commissioner Aieta: Well obviously not since they approved it without snow storage so..... One other thing, now that the site is actively being constructed and they have an approval, did they ever go to the State Traffic Authority or the State DOT to determine whether there was going to be a turning lane onto Rowley Street, provided by the State of Connecticut, or if that has been approved?

Glenn Chalder: Don't have knowledge of it.

Commissioner Aieta: The original application, it was debated back and forth as far as the elimination of the buffer, or the setback, the open space in front of the building and we were told by the Planner at the time, Ed Meehan, said there was a turning lane on the turnpike

which is not correct. It is not a turning lane and if the State determines that this site is enough traffic generator they might require a turning lane which would cut down on the front yard setbacks, and we are only at a certain number of feet because of the waiver that we gave them.

Glenn Chalder: The property line is here, curb line for the Berlin Turnpike is here, Rowley Street is here, so if a turning lane were to be required, there is ample distance within the right of way and it wouldn't affect the setbacks because the setbacks would be measured from the property line, which is here.

Commissioner Aieta: But we waived the requirements for the, we waived the requirements down to five feet.

Glenn Chalder: On Rowley Street or the Berlin Turnpike?

Commissioner Aieta: No, on the Berlin Turnpike.

Glenn Chalder: Five feet for the set back of the parking area, or the buildings?

Commissioner Aieta: For the front yard setback. These are questions that probably should have been answered under the first application, but were never answered.

Commissioner Sobieski: Excuse me, I think Frank is referring to the STC and even if the STC requires a turning lane, it would be in the state right of way, so any property or any waivers that you have given in the past should not have included the state right of way. So if....

Commissioner Aieta: The point that I am trying to make Stanley, is that if that was, if that came to fruition if they did put a turning lane there, there would be a five foot strip of grass between the pavement and the parking area, that's what you would end up with if the state came in and decided to put a turning lane there. If the state came in and put a turning lane there, you would only have five feet from the pavement to the pavement of the parking lot because we waived beyond what the regulation required, we waived down to five feet.

Chairman Pruet: If I recall, I believe Mr. Meehan was in contact with the State and they had no plans to make a turning lane.

Commissioner Aieta: But isn't that part of their, it's on the Berlin Turnpike, isn't there requirements of the applicant to get approval, you would know this Stanley, or

Commissioner Sobieski: It would have to go before the STC and they would come up with some changes in which case if they did put that in, it would have to come back here I would think.

Glenn Chalder: I'm not sure it requires approval from the STC. Does it meet the thresholds for the STC permit?

Commissioner Sobieski: Any major generator does.

Glenn Chalder: A major generator is 200 parking spaces or a hundred thousand square feet.

Commissioner Sobieski: Right.

Glenn Chalder: And so at the present time this site has two curb cuts onto the Berlin Turnpike, its got a right turn in and a right turn out, and what this plan shows is a conversion and elimination of one of those, so now it's only right turn in. If they are modifying the curb cut, they are going to need to work with the District to get approval for that. The Commission's action on the prior site plan specifically calls out that the Commission approves the waiver of Section 6.10.4. (B) finding that the thirty-five front yard set back on Rowley Street, the application of the thirty-five foot green space on the Berlin Turnpike and the fifty foot inland wetland building setback along the rear boundary limits redevelopment of this gateway location. Further the Commission finds that the proposed site plan restores green space along the turnpike frontage by the removal of pavement and parking from the state right of way. So I think the finding of the Commission was actually more landscaping under the approved plan than there is at the present time, so perhaps that is what you were thinking about.

Commissioner Aieta: You are counting the state property as part of their land, and it is not.

Glenn Chalder: I think what I'm trying to advise the Commission here is that the applicant has not requested any change to the physical configuration already approved by the Commission.

Commissioner Aieta: I thought there might have been some communication between the applicant and the state DOT.

Glenn Chalder: We can certainly, has there been any communication between.....

Michael Berry: I think Mr. Torres can answer that question.

Ozzie Torres: Mr. Chairman, Members of the Commission, Ozzie Torres again for the record. The applicant has gone to the state for an encroachment permit, they have reviewed our entrance plan, they gave us comments that have been incorporated in the plan, and the mylars as of record are all including the state DOT's requirements, everything.

Chairman Pruet: Thank you. Other comments from the Commission? What is the pleasure of the Commission on this petition?

Commissioner Sobieski: Move it to Old Business.

Commissioner Hall: This is just to add the 5,000 square foot mezzanine, that's all this is.

Glenn Chalder: I would like to point out for the record, the applicant stated 5,000, the plan submitted indicated 5,602. I just wanted the Commission to be aware that the plans indicate, the floor plans say 5,602 square feet. So, a site plan modification, not a legal notice issue or procedural defect in that regard. Just to make it clear.

Commissioner Hall: If we do approve this I think it would be important to state specifically that if it reverted back to non-furniture use that it would have to be, I think we have to be pretty tight on this, otherwise we are going to be a mess on our parking.

Chairman Pruet: In the land records, in the town clerk's, in the building department.

Commissioner Anest: I agree with Cathy, we have to make it clear to the owner of the building that this is what we want, and put it where ever we need to put it so it doesn't fall through the cracks, ten, fifteen, twenty years from now.

Glenn Chalder: I agree, and I think the Commission approved it for retail, the addition of the mezzanine either you take the mezzanine out or you need to get approval from us. Should it come along that there is some use that is even a lower traffic generator than a furniture retailer, then that change of use the Commission might approve, or there might be some other type of configuration the Commission might be comfortable with depending on how the nature of the complex changes so I think with those two conditions, either the mezzanine is removed or you get approval from us could provide you with the protection you desire.

Chairman Pruet: Any other comments? Stanley recommended we move this to Old Business, is that the consensus to move this to Old Business. Okay, so moved.

VII. OLD BUSINESS

Chairman Pruet: Let me get my remarks here, what we did move. Petition 01-12, we did not move that into Old Business.

PETITION 02-12 3573 Berlin Turnpike Proposed Restaurant Special Exception (Section 3.19)

Commissioner Camerota moved that Petition 02-12 – 3573 Berlin Turnpike at corner of Rowley Street, known as Maguire Sports Bar, Brown Realty LLC owner, contact James Brown 59 Cove Road, Lyme, CT 06371 request for Special Exception Section 3.19 restaurant use, PD Zone District, be approved for use of 5,000 SF as a restaurant.

FINDINGS:

The Commission finds that the design of the proposed restaurant use is attractive and complements the area.

In accordance with Section 6.1.1.J, the Commission finds, based on information submitted by the applicant and due to the mixture of uses at the site and the fact that peak parking needs occur during different hours of the day and days of the week, that adequate provisions have been made for the anticipated parking needs of the proposed uses at the site.

The Commission finds that adequate provision has been made for the anticipated traffic generation by the proposed uses at the site.

The motion was seconded by Commissioner Anest.

Commissioner Hall: Are we supposed to, is this our site plan? When we refer to the fact that the restaurant use is attractive, complements the area, I mean, seriously, what are we going on, this picture?

Glenn Chalder: I apologize.

Commissioner Hall: I mean, really!

Glenn Chalder: This was submitted in black and white form to our office, and colored by the applicant tonight. So in terms of looking at the configuration, the restaurant is located at this end of the facility and mirrors the architectural elements of the other parts of the plaza, so ...

Commissioner Hall: Conceptually, and that's what I think we need to be very specific about, we are not really seeing what's going to be there. This is a concept, that we are voting on. Except for this, I mean, this is real because it exists somewhere else.

Glenn Chalder: I would urge the Commission, it was my impression the applicant was requesting that the Commission approve this architectural treatment of the building and facility, and while the brochure submitted for the record tonight describes the nature the of the restaurant and shows what the interior might look like, it is not binding on the Commission on the exterior. The Commission, should you approve this application tonight, is agreeing to that exterior treatment.

Commissioner Aieta: What is it? What's it made out of?

Glenn Chalder: It's the same material that the Commission approved in the application.

Commissioner Hall: Back in October, November, whenever it was?

Commissioner Anest: They're not changing, the façade is going to be identical, all they are doing is putting the business inside.

Glenn Chalder: Putting the business inside, but I think the other thing, the original architectural, the elevation of the sign banner, for Bassett is.....

Commissioner Hall: Remember we have a lot of new members sitting around this table that never really saw it.

Glenn Chalder: I apologize to the Commissioners again. Not having been here when this was originally approved, I was taking that as the foundation that we were then building from and if there isn't that bit of history, I will answer any questions that I can.

Commissioner Anest: So, we are approving the restaurant

Glenn Chalder: Correct.

Commissioner Anest: Use.

Commissioner Hall: Use, right, and that's why I don't like this business about attractive, complements, whatever, because we are not one hundred percent what it is going to be. It's just "use" I can understand voting on the use, but that's why I don't like to vote on the same night.....

Commissioner Aieta: There is a change in the building elevations. The front elevation is changed. This was never a two story building, now it is, right, because they are adding the mezzanine or does the mezzanine fit inside the existing.....

Commissioner Hall: Yeah, that's what he said, that was my question earlier on tonight.

Commissioner Aieta: What about the façade over where Bassett is, that's a new feature. That feature is how many feet in the air? It's above, is that supposed to be so that they have signage from, that can be seen from the Berlin Turnpike?

Glenn Chalder: I imagine that there would be, yes.

Commissioner Aieta: But we don't even know what the heights are. Is it thirty feet, fifty feet, seventy-five feet, you're voting on something without even a plan, without even an elevation. That's why I said originally that we shouldn't be voting on this stuff the same night we hear it, especially on an application of this magnitude. I'm not against this application, don't get me wrong, I would love to see that site developed and that building that's there torn down and something nice put in there, but I want it done the right way, and I want to make sure that the parking is adequate. The worst thing that you could do is approve this and find out later that the people can't succeed there in business because there's not adequate parking.

Glenn Chalder: I think the language in the motion, the motion mirrored language that was in the prior motion when the Commission approved this, so I felt that this was an adaptation of what the Commission had already approved. If for whatever reason you are not comfortable with that language I would urge you to remove it because essentially the exterior of the building would remain what you approved last fall.

Commissioner Aieta: That's a different elevation than what you see here tonight.

Chairman Pruet: Well, the Commission approved the design back in October or November, now with this addition here it lacks specificity.

Glenn Chalder: There has been no testimony in the record tonight regarding change to the exterior elevations of the building.

Commissioner Anest: Do we have what it was?

Glenn Chalder: I don't have those drawings here tonight, no.

Commissioner Hall: I think we need to do it at the next meeting.

Commissioner Aieta: Commission members, there is obvious change. There was never that elevation that has Bassett on it to be a sign. That was never part.....

Commissioner Anest: We are not voting on Bassett tonight. We're voting on the restaurant.

Commissioner Hall: Restaurant use.

Commissioner Aieta: You have co-mingled these two applications so yes you are voting on it.

Commissioner Anest: No we're not.

Chairman Pruet: No, there are two separate, we're voting on the restaurant use.

Commissioner Camerota: The purpose of discussing even the Bassett was just to deal with the parking issue, to approve the restaurant use.

Chairman Pruet: I put that into the record.

Commissioner Hall: The restaurant use is all we are talking about.

Commissioner Anest: Yeah, the restaurant use is all we are talking about.

Commissioner Hall: So I don't want to talk about design, and I don't want to talk about anything else, just restaurant.....

Commissioner Camerota: Parking is appropriate and I think there is really nothing in there about finding parking is adequate.

Chairman Pruet: Second paragraph.

Commissioner Anest: I would get rid of, the Commission find the proposed restaurant use....

Chairman Pruet: What did you say, Carol?

Commissioner Anest: I would take out the design, and put, the Commission finds the proposed restaurant use compatible with the area, or, but I would take out the word design and the word attractive, maybe compatible with the area, appropriate? Because we have nothing to do with the design.

Commissioner Hall: Right. It's just the use.

Commissioner Aieta: So when are you going to take up the issue that the elevation changed on the building, is that not going to be taken up at all? Or is that going to be taken up under the application?

Chairman Pruet: It would have to be under the other application, because this doesn't address it.

Commissioner Aieta: Excuse me?

Chairman Pruet: It would have to be under the other application because it doesn't address it.

Commissioner Aieta: Planner, could you put some light on this so we do it the right way?

Glenn Chalder: I think the situation here again, I apologize to the Commission because I am playing catch-up from where you were.....

Commissioner Hall: We understand that.

Glenn Chalder: So I think at this point in time, I think messing with the design that you approved last fall tonight, is a slippery slope for us, and if the Commission was to approve the restaurant and leave the design aspects out of it, if there is any change that the applicant desires, to what you approved in the fall, he's got to come back. So, the issue is, we are approving the use of this site, let the applicant apply for what they are seeking permission for, the key issue I would think, in your review is the adequacy of parking at the site. I cannot solve that for you. You have to come to your own conclusion whether or not you feel the parking will be adequate at the site for that particular use. I have attempted to craft some I

language which I think would give you words to consider, but you need to put these in your own words and make those findings yourself. So my recommendation would be to strike the first paragraph rather than even re-work it, and if you wish to, place the language that the Commission understands that the design approved in Application 30-11, will continue to be the architectural design for the outside of this facility.

Chairman Pruet: So the recommendation would be to delete that first paragraph where it says, the Commission finds that the design etc., if that was deleted and move forward on just the restaurant portion of it. Would that be appropriate?

Commissioner Aieta: Mr. Chairman, just so I understand, does that mean that the applicant has to come back with a modification to the building elevations.....

Chairman Pruet: Yes, because there has been a change, yes.

Commissioner Aieta: For approval, okay that's all I'm asking for. You don't know what you are getting there, we don't even know the height of that signage piece that they are putting up, it's got to be reviewed. You are approving stuff without even knowing what you are looking at.

Chairman Pruet: We could either modify this motion, or withdraw it and re-read it, deleting the first paragraph.

Commissioner Camerota: Well I like the add in that Glenn had mentioned too about saying if there is any change they need to come back, from what was approved previously.

Commissioner Hall: Do you think we should take the time to re-work this and bring it up next time instead of having you do this on the spur of the moment right now, I don't think it's fair to you to have you re-write it on the spur of the moment.

Chairman Pruet: I agree. Let's take our time and do it up properly.

Commissioner Hall: Is there any kind of push on this? Is there a deadline that they are up against in the next two weeks.

Glenn Chalder: I have not communicated with the applicant directly on this. I think the timing of the Wal-Mart Bassett expansion is of significant concern in terms of moving ahead with construction but exactly what the nature of that would be has been expressed to me, so I do not know.

Commissioner Camerota: That wouldn't affect this petition because this is just about the restaurant.

Glenn Chalder: This is the restaurant. The Commission does meet again in two weeks, so if there is any supplemental information that the applicant would choose to provide to staff he has an opportunity to do that.

Commissioner Hall: I want to get it right. Then also, if this is only for the restaurant use meaning, I'll call it DiBella's for lack of a better term at this point, should we be talking about proposed uses or should we make this just specific to that one restaurant so that the anticipated parking needs of the proposed use, at this site and not try to lump them all together at this point. Does that make sense?

Chairman Pruet: So would you feel more comfortable to withdraw this and completely re-write it?

Commissioner Hall: And have it specific to the 5,000 square foot restaurant.

Commissioner Camerota withdrew the motion, and Commissioner Anest withdrew the second.

Commissioner Anest: I would like to see something in there though that the restaurant use is compatible with the area, we need to have something like that in there.

Chairman Pruet: Okay, we will work on a new draft motion for the next meeting.

PETITION 03-12
3066 Berlin Turnpike
Proposed Charitable/Civic Event
Special Exception (Section 3.2.8)

Commissioner Anest moved that PETITION 03-12 – 3066 Berlin Turnpike, Sphinx Shriners AAONMS owner and applicant, contact Jean P. Maheu, request for Special Exception Section 3.2.8 Charitable and Civic Event Carnival, June 20,23, 2012, PD Zone District be approved subject to the following conditions:

FINDINGS:

The Commission finds that the proposed event will help support the charitable purposes of the association.

The Commission finds the proposed hours and days of operation will not be incompatible with the adjacent uses.

CONDITIONS:

1. The hours of operation are limited to 6 PM to 10 PM weekdays and 4 PM to 10 PM on Saturday.
2. Prior to the event, an insurance certificate shall be provided to the town.
3. Vehicles shall only access or exit from Deming Street at the existing site driveway.
4. No on-street parking will be permitted along either side of Deming Street.
5. The applicant shall contact the Newington Police Department to coordinate traffic control for the event.
6. The applicant shall contact the Health District for any food permits needed for the event as well as confirming arrangements for bathroom facilities and garbage control.

The motion was seconded by Commissioner Hall.

Glenn Chalder: The one other thing that came up at the hearing was the pledge that the applicant would be responsible for clean-up promptly after the event so you may want to consider adding that.

Commissioner Anest: I didn't know if that was going to be considered under the garbage control, or should it be another one saying that the applicant has agreed to garbage clean-up along the road, post-carnival.

Glenn Chalder: I think they are two separate issues. One from the Health Department is to make sure that they are making adequate provision and the second one is should there be wind blown or other things, that the Shriners would sweep the neighborhood shall we say, after the event to make sure that it is taken care of.

Chairman Pruet: Okay, what would you.....

Glenn Chalder: I think the wording would be, the applicant shall be responsible for clean-up promptly after the event.

Chairman Pruet: Okay, we'll add that in as number seven.

Commissioner Anest: Should we specify that not only on their own property but on the roadway, surrounding areas?

Chairman Pruet: Could you just read it again for the record, Glenn, number seven?

Glenn Chalder: The applicant shall be responsible for cleanup of surrounding areas promptly after the event.

Commissioner Hall: Should we add anything about that the applicant is responsible for private police if needed. Is there anything in there about that?

Chairman Pruet: I believe they discussed that and they are.....

Commissioner Hall: Oh, number five, sorry, sorry. My eyes went right over that.

Chairman Pruet: No problem. Any other discussions?

The vote was unanimously in favor of the motion with seven voting YES.

PETITION 04-12
2095 Berlin Turnpike
Proposed Outdoor Entertainment
Special Exception (Section 3.15.5)

Commissioner Hall moved that PETITION 04-12 – 2095 Berlin Turnpike, Fat & Happy Restaurant, Callahan Realty LLC owner, F & H Group LLC 2095 Berlin Turnpike applicant, request for Special Exception Section 3.15.5 for all year dining, outdoor live music and tent covering for outdoor patio, B-BT Zone District, be approved and subject to the following conditions:

FINDINGS:

The Commission finds that the tent is a reasonable accommodation to facilitate outdoor dining at this establishment.

The Commission finds the nature and extent of the proposed outdoor entertainment will not be incompatible with the adjacent uses.

CONDITIONS:

1. Prior to installing the tent covering, the Building Official and the Fire Marshal shall approve the proposed tent structure and means of egress.
2. Prior to installing any heating equipment, the Building Official and the Fire Marshal shall approve any heating equipment and means of egress.
3. The outdoor entertainment shall be limited as follows:
 - a. Outdoor entertainment is restricted to Friday and Saturday evening.
 - b. Outdoor entertainment is limited to 5 PM to 10 PM
 - c. Outdoor entertainment is limited to May 1 to September 30.
 - d. Amplification of instruments is limited to acoustic guitar, piano, and similar instruments. Amplification of electric guitars is not permitted.

The motion was seconded by Commissioner Sobieski.

Chairman Pruet: Discussion? I know Cathy mentioned about the hours before, might be something you would like to change from 10 PM to 11 PM.

Commissioner Hall: I don't think it would be a problem in that area, and he also wanted Friday through Sunday and we have, or rather Thursday through Sunday and we have Friday and Saturday.

Commissioner Woods: Is it necessary to limit it May through September?

Glenn Chalder: I had crafted some language for review by the Commission but I think he had indicated that there might be other times of the year that he would like to....

Commissioner Woods: If it's going to be approved for May, I don't see why it can't be approved for January. Not that that is realistic, but in March it was eighty degrees, so.....

Chairman Pruet: So maybe delete Item C and the hours again, under B, do you think ten is appropriate or 11?

Commission: Okay with eleven.

Chairman Pruet: Okay, so we will change that from 5 PM to 11.

Commissioner Hall: And A would be Thursday to Sunday. That's what he had asked for.

Commissioner Anest: But he did also ask on week-ends, from noon-time, so we should incorporate that on Saturdays and Sundays to allow him to start at noon if he has a special event.

Glenn Chalder: If I may, clearly the concern that we would have would be the end day and the interference that might have with other uses. If it is acoustic instruments and mild amplification, then if it is happening at two o'clock in the afternoon it would actually have less impact or less apparent impact than it might at night. So you might not need an earlier time limitation, just say it should end by.....

Chairman Pruet: Okay, so delete 5 PM

Commissioner Hall: Shall not exceed 11 PM.

Chairman Pruet: Outdoor entertainment is limited to 11 PM.
Just to re-clarify under the motion, under 3-a, Outdoor entertainment is restricted to Thursday and Saturday evening.....

Commissioners: No, Thursday through Sunday.

Chairman Pruet: Thursday through Sunday evening. B, Outdoor entertainment is limited to 11 PM; C is deleted; D becomes the new C and that's it. Any other discussions on the motion?

The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Pruet: Just a clarification on the mezzanine, 05-12, what did we decide on that?

Commissioner Aieta: Get the language right.

Commissioner Hall: Let's work this.

Chairman Pruet: So we are going to work that language to make sure that we are addressing it properly, especially to the site provisions and elevations, etc.

Commissioner Hall: And future use.

Chairman Pruet: And future use, right, so we are not going to bring that forward tonight.

PETITION 06-12
3260 Berlin Turnpike
Proposed Special Event
Special Exception (Section 3.19.1)

Commissioner Woods moved that Petition 06-12 – 3260 Berlin Turnpike, Plaza Azteca Restaurant applicant, 3260 Berlin Turnpike LLC, 5 Saddle Lane, Wallingford, CT owner, contact Robert Moreno, request for Special Exception Section 3.19.1 for outdoor event, PD Zone District, be approved subject to the following conditions:

FINDINGS:

The Commission finds that reasonable arrangements have been made to accommodate a special outdoor event at this establishment.

The Commission finds that adequate provision has been made for the anticipated parking needs of the proposed use and the other uses in the area during this event.

The Commission finds that adequate provision has been made for the anticipated traffic generation by the proposed use and the other uses in the area.

CONDITIONS:

1. The hours of operation shall cease by 11:00 PM on Saturday, May 5th.

2. The applicant shall contact the Newington Police Department to coordinate traffic control or other arrangements for the event.
3. The applicant shall be responsible for obtaining any other approvals associated with the event (Health District, Liquor Permit, Tent Permit, etc.) and complying with any requirements.
4. Any outdoor entertainment or activities shall be limited as follows:
 - a. Outdoor entertainment or activities shall cease by 11 PM.
 - b. Amplification of music or sound shall not, in the opinion of the Newington Police Department be a nuisance to nearby uses.

The motion was seconded by Commissioner Sobieski.

Commissioner Aieta: Mr. Chairman, even though the applicant agreed to restore the grass area, could we put it as part of the conditions so there is no misunderstanding what we want done.

Chairman Pruet: Okay. We will add Condition number 5 that the outdoor grass area will be restored to the original condition.

Commissioner Anest: Previous condition.

Chairman Pruet: Okay, previous condition.

The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Pruet: That completes our draft suggested motions. We are still under Old Business.

A. Newington Town Plan and Zoning Commission discussion of Zone Regulation Amendments

1. Add **Section 3.15.8** to allow automotive uses by Special Exception
 - a. in the business Berlin Turnpike Zone (B-BT and
 - b. by extension, in the Planned Development District (PD).
2. Amend **Section 6.11** Sale, Rental, Service or Storage of Motor Vehicles.

Referral to Capitol Region Council of Governments and Central Connecticut Regional Planning Agency for advisory comments initiated.

B. Public comment on possible zone amendment.

Chairman Pruet: Glenn, if you could guide us through what you have here on the zone study?

Glenn Chalder: I think, following the Commission's, at our last meeting, we had a discussion about the text language and how to identify the buffer locations, etc., so using the town's GIS system what we were able to do here was to map the locations which are affected by the proposed regulation changes. Essentially what we have in terms of the regulations is the following type of situation, the purple zones are industrial zones and this is where auto related uses are permitted today. The proposed regulation changes would allow auto related in the pink districts, the Berlin Turnpike and then because the Newington Zoning Regulations

by extension allow those uses in the Planned Development Zone, the blue zones would now come into play.

The lot sizes are colored as follows; the lightest color in each of those three shades are sites less than one acre in size, and because of that, an auto related use would not be permitted under the regulations. The next darkest color is a site between one to three acres in size and that would allow an auto related use by itself, and then the darkest colors are sites in excess of three acres and as a result that would allow an auto related use and perhaps another use on the property, a combination type use if you will. So again, given the color of these properties, you understand the zoning district and the type of auto related use that might occur. In addition to that, we did have some dimensional setback requirements so there were two buffers that were placed on here. It's probably hard to see on your smaller drawings, but here you have a green buffer where these auto related uses about a residential zone, and we have a fifty foot setback. The regulation talks about increasing that fifty foot setback to one hundred feet so as a result the building would have to be located green and yellow away from the residential zone boundary, so this yellow strip is the incremental change of the regulation that we are talking about. The other restriction was that if you are located adjacent to a special land use there is a hundred foot driveway buffer for you to have a driveway to your auto related use. So for example on Pascone Place here, we have a day care center, because of that it is a special land use, there is that black hundred foot halo around it, and what that means is no driveway for an auto related use could be located within that. You could have an auto related use apply to you on an adjacent property but the driveway would have to be located outside of that buffer. So here is a way that we can use the town's GIS information and system to kind of evaluate so that you understand the policy implications here and again, that is what the map is intended to indicate. The one last color on here is this bright red with the yellow boundary are locations which are currently in the State Data Base for having a registered automotive related use at that address.

Chairman Pruet: Okay, questions on the map, or for Glenn? Quite impressive.

Commissioner Hall: Very good.

Glenn Chalder: I think the other change that we made was in terms of the text. We did have a discussion last time about some tweaks to the text. I think we had, I think Ed had originally crafted it so that it talked about a Special Permit, I think Commissioner Hall had indicated that the right phraseology would be Special Exception. We added in some text language to clarify how these buffer distances will be measured, we think in essence to clarify and so this proposed text we believe reflects what we talked about at our meeting in March.

Commissioner Aieta: Mr. Chairman, I would like to see the first, the reason we are looking at this, we've got to be clear, we're looking at this because past Commissions have taken it out of the regulations which resulted in over fifty businesses in the Town of Newington becoming non-conforming uses. Why I'm looking at it again would be so that these businesses can be conforming, if we put it back in they would be conforming uses. In that way, those businesses could have expansion of their business, they would be able to expand. Under the conditions that are now, they could not expand beyond the limits of what they are, so their business could never expand so we have fifty businesses in town that we are stifling because of taking this out of the regulations. I think at this point we should be looking at the Special Exception and making the Special Exception have more bite in it. We, I would like to see the language of not waiving any of our buffer requirements under this section of the regulations. If we are saying it's a hundred feet, then we should say that is not a negotiable item under this Special Exception. We're saying that we don't want the overhead doors facing the Berlin Turnpike then that should not be a negotiable item. I mean we should put some teeth into this so that the people, the new people that are coming in have to meet the requirements,

either they do or they don't. I think Carol had some reservations about this as we talked about it, and I do too. I'd like to see the regulations, we talked about building design review, I'd like to see that in there, where we get to dictate some materials that should or should not be used in the construction of the building. Whether the building should be a decorative if it's a decorative brick or decorative block, whether it should be on all four sides or just the front, we should have the ability to be able to say that also. You have the opportunity now, you're drafting a new regulation, you should be able to put that in there as part of the Special Exception specifically for auto related uses.

Commissioner Anest: My biggest concern is, and I hate saying this, is used cars. That's my biggest, biggest concern with putting this back in. Is there any language that we can use and not to be prejudice, but exclude the sale of used cars, a used car dealership, or controlling it better. That's my main concern with this.

Glenn Chalder: It's challenging to try to separate between uses that do the same thing. We have used car sales and new car sales, so if the issue is we can specify what the concerns are it becomes easier. If it's the way the cars are displayed, or the nature of the location where cars are displayed, that's easier to do. It's harder to separate out and say, we'll allow things which are the color green but not the color blue. So understanding is part of our legislative record, what we want to try to accomplish and why that level of restriction or prohibition is important would be one of the things that we would want to kind of talk through. We did have a chance to look through, we have a data base of all zoning regulations for the State of Connecticut, we had a chance to look through it today, and there is one town that we found that does have a, used car sales are limited to accessory to new car sales. So what this town has done is say, if you have a Mazda dealership you can sell used cars at the Mazda dealership. You can sell used cars as accessory to the new car dealership.

Commissioner Aieta: I don't think we have any new car dealers in the Town of Newington.

Chairman Pruet: We don't.

Commissioner Anest: As you go down further south there are all these used cars and I don't want that migrating north. I don't want to be prejudiced, but I just don't want that migrating, the used car dealerships migrating north.

Commissioner Aieta: The way to do it, you would have to put restrictions as to the display of the cars, there's a whole bunch of things that you could put in there so it's, it doesn't become that.

Glenn Chalder: I think if you wanted to try to place limits or prohibitions on used car sales specifically, then I would take advantage of our data base and work with Craig to try to figure out a way that we might be able to accomplish that for you. I think that is challenging, because the issue would be in a sense like signage, what is the issue that you have, could it be addressed through other means, what is the appropriate way to address this? Blanket used car, again, if there were multiple examples from around the State of Connecticut that said, yeah, there is a clear distinction, I would feel comfortable recommending to you that many other people do this and you should feel comfortable doing this. My research today did not indicate that. I found one town that basically carved out an exception for used cars and said used car sales are only permitted as an accessory for new car sales. So in essence that is the way that they decided to approach it. There are other towns that have language or limitations on how you might outdoor display merchandise. Behind hedges, and berms and other things so that the sign would indicate that used car sales occur here and if it is the visibility of the product that is, or how it is displayed, fences or hedges or other things like that

might be an appropriate type of response, or we could craft a regulation to say that the Commission has the ability to require those kinds of things and you could consider that.

Commissioner Aieta: You could eliminate them in the front yard.

Chairman Pruet: Like we did with Cashway, we had restrictions on the parking.....

Commissioner Hall: That worked out well.

Commissioner Anest: That was really good.

Chairman Pruet: Well, I'm just saying we did.....

Commissioner Aieta: If you said no display in the front yard that would put it where, if they had a building it would be behind the building, you know, you could limit it that way. There's other ways to limit it without saying, we don't want used car dealerships.

Commissioner Camerota: I prefer that approach because you could have I don't know, another type of business where part of it they do sell used cars but maybe they really just advertise and display them in the back so I think limiting the way that the merchandise is displayed is probably more preferable than saying, I mean, I totally agree with you, I don't want our part of the Berlin Turnpike to look like the part that is in Berlin.

Commissioner Anest: With the flags on the cars, the big signs....

Chairman Pruet: We just have to be careful on the discriminatory aspect, but controlling it, that's a different concept.

Commissioner Aieta: Also Carol, a lot of the, if you go there a lot of the display of that merchandise is not even on their own property.

Commissioner Anest: No, they're on the state right of way.

Commissioner Aieta: They are on the state right of way, that's why it looks so bad because it is right on the highway.

Commissioner Anest: But even if it's right in front of the building, you still have the flags, and the big dollar signs on the windows....

Commissioner Hall: And the hoods up.

Glenn Chalder: During the discussion in March we did change the language on 6.11.4 to say no display, sale, rental, or storage of any motor vehicle is permitted in the required front yard or in the street right of way. So again, that becomes an enforcement issue but the issue is the street right of way is not, it's the state right of way, you can't do that, and the required front yard is not the space between the building and the street, but it's the building setback area.

Commissioner Anest: Right, so can we change that and not use the words required front yard and like word it so it is not in front of the building, you know, from the street to the actual façade of the building?

Glenn Chalder: There are many sites that that would probably make them either non-conforming today, if they are doing it today, or make them non-feasible. In other words, if the building is located middle or back of property, there is no space behind the building to have any type of car storage. You aren't talking car storage are you, you're talking sales, display, I understand, okay.

Chairman Pruet: So that's something we could maybe look at.....

Commissioner Anest: Maybe we could spearhead, we could just be the model.

Glenn Chalder: I feel that my role would be to try to inform you as to what other towns have done so you would develop a level of comfort. If you want to be bolder, I would be happy to work with Craig and help you accomplish that.

Commissioner Woods: I think we have to be careful as a Commission too because if we get too restrictive, we are going to paint ourselves into a corner and this loses all point and purpose. I mean, we have to give ourselves, as a Commission, some flexibility to be able to make decisions as one comes in.

Chairman Pruet: Can you elaborate, give an example?

Commissioner Woods: I would hate to see, we put all these fixed places in and then it just, either already existing, can't expand, or new can't come in. If we limit it so much so that it doesn't bring us anything, what is the point?

Commissioner Sobieski: I'd like to see the Commission vote on each individual item. Every time a property comes up, look at it. As Dana just said, if we paint ourselves into a corner, we're going to lose a lot of business and if we make it too restrictive, people are going to say, we don't want to come to Newington, we want to go to the surrounding towns. So, all I'm saying is, we don't want to make it so we have a narrow tunnel vision, we want to kind of expand a little bit, and I think the Commission should vote on each individual aspect. Have some type of guidelines, maybe look at that town that specifically said about used cars, or car dealers and try to craft something along those lines. The other issue too is that, in certain cases, not a lot of cases, the State, DOT has gone in and had people who are on the right of way, you know, parking cars, actually create a lease with them, so they are leasing the property. Now I do know of a couple of spots south of here that they are almost right on the roadway, and I know that is not right. But, the State has 3800 miles of state highway, and it's kind of difficult to enforce it all.

Glenn Chalder: I think it's possible, I understand that the concern is the location and the visibility if you will of the product and things like hoods up, etc., etc. We could craft criteria, say as part of the Special Exception criteria for the Commission's review that as part of the review of this application any cars on display, or stored, or otherwise shall be adequately screened using berms, fences, walls, etc., and then the applicant has got to indicate to you that he either can or cannot screen, but the Commission would have to make a finding that you either are comfortable with it, appropriately screened for the location, or some other type of language that would give you the ability to say, we don't want this done poorly, and to condition an application with that type of situation. So that is a situation that we might be able to get at, the very same concerns that you have expressed but in a way that is appropriate for zoning and can be easily applied by the Commission.

Commissioner Anest: I just want to say, I'm not opposed to display, rental or storage for sale. I'm not like really tightening them up, because I know rental, we have car rental places on the

Berlin Turnpike and the cars are parked the front. I don't have a problem with that. I have a problem with how the sale cars are displayed. That's my concern.

Glenn Chalder: Understood. I would want to try to coach you though to be cautious of a situation that somebody could argue that their principal use was rental or some other thing, but they are using that, a loophole if you will, to continue to do the very behavior that you might find disagreeable.

Commissioner Anest: If you're renting a car though, you're not going to have the hood open with a big for sale sign.

Glenn Chalder: No, but that might be, up by Bradley Airport, Avis sells used rental cars, so they have a rental location, but they sell the used cars there, so they do both, which is the primary purpose of their business, well Avis will tell you the rental is, but they could be selling cars in a way that you would find perhaps not appropriate. So I think the standard in terms of screening or visibility or the nature of the way that it is displayed, would be things that would fall within the purview and zoning could probably give you a good tool to manage that.

Commissioner Hall: I don't want fences, berms or screens in the front either.

Commissioner Aieta: I think the Commissioners have to ask themselves what are you trying to accomplish by bringing this auto related use back. Are you trying to accomplish the fact, what I said earlier, are you trying to make the existing businesses conforming, the fifty businesses in town, that are now non-conforming, are you trying to make them conforming, or are you trying to make it so that we open it up for new automotive businesses to come in, what are you trying to accomplish? Both, or one of them? I'm looking at this because I want to make all those businesses that are non-conforming, conforming businesses. That's what I am trying to accomplish, not necessarily open it up for every kind of automotive use to come in on the Berlin Turnpike.

Commissioner Woods: I think the two are related. I don't know how you can separate them. How can you say okay, you're in town and you're automotive, you're good, but we're not going to accept anybody else?

Commissioner Aieta: Well, that is what you have to ask yourself, do you want to do it two pronged thing, both trying to make the non-conforming conforming, plus open it up for all types of automotive uses, then that's what you have to ask yourself. What are you trying to accomplish with this, and then, you will be able to determine what you want to put in the regulations to regulate it.

Chairman Pruet: You mentioned before Stan, and Dana too about not being restrictive, can you give me an example?

Commissioner Woods: Well yeah, I mean the current numbers that we are talking about now, even existing businesses, you wouldn't be changing anything, they would still be non-conforming. Out of the fifty or so businesses, if you go by the parameters we have laid out now, you are not going to change a whole lot. A lot of them are already in areas where there is residential, or they have garage doors or things that we are already talking about that we don't want, so you're not helping that at all.

Commissioner Sobieski: What I was referring to was if you do have a business that wants to come in on a parcel of property I don't want to make it so restrictive that they are going to say the heck with it, I'll go somewhere else. I don't also want to open it up to everything that

comes into town, so I think that is where the Commission should have the capability of making an individual decision.

Chairman Pruet: I see what you mean, but do you have an example, a specific thing that you are referring to, or.....

Commissioner Sobieski: Well, let's assume Firestone or Goodyear or whatever wanted to come in okay, as an auto repair business. You might want to tastefully have that design so it doesn't become an eyesore so to speak and by the same token, you are going to make sure that the cars that are being repaired on a daily basis, if they are going to come in at eight o'clock in the morning and be ready at four o'clock in the afternoon, goes in one spot. Stuff that is going to require a month or two months has to be put out of sight. That's what I'm referring to. You referred to Cashway, I mean, that's a separate issue by itself, but you look at all of the places around town where you have cars just piled up, we've gone through and cleaned up a lot of them over the years, but we don't want to open the door and start all over again, that's what I'm referring to.

Commissioner Woods: But under a Special Exception no matter what we draft for regulations every single one of these uses would have to come in front of us to be approved, no matter what they are.

Commissioner Aieta: But without standards in the Special Exception you have a hard case.

Commissioner Woods: Nobody is making a point for no standards, we're just talking about standards that are reasonable or realistic.

Commissioner Aieta: But you can't zone, you can't look at this as specifically for one application, you can't start looking at this change of bringing this back specifically for one application or one applicant, I mean, it's either got to fit everybody or nobody.

Commissioner Sobieski: I'm referring to everybody, I just used those as examples.

Glenn Chalder: The only thing I would like to point out for the Commission's benefit, the regulations are set up to allow this use by Special Exception. So it's not a site plan approval, black or white line, we're not saying that if your door is ten feet you're permitted but if it's ten feet, one, you're not. We're not drawing the line that way. What we are saying is, some States call these kinds of uses conditional uses. There are certain conditions where you could demonstrate that this use would be appropriate at that site. So as a result in those conditions, we would review it, and find perhaps a way to approve. There's other situations where you are not going to be able to do it, so this use would not be appropriate in those locations, and that's really where the Commission exercises its discretion. So I think by the way that Ed has proposed this and set this up as a Special Permit gives you the ability to start making these decisions and I think an applicant would request that you have good criteria that they can judge whether or not it is a reasonable application to make. I think if you feel that you have a good review tools and you've been clear to applicants you have the opportunity to have a good permitting process and have a full dialogue on those issues.

Chairman Pruet: Okay, if maybe we could reflect with Craig and you about Carol's concerns about sales and our regulations and also maybe come up with some criteria we can discuss at the next meeting, for the Commission to.....

Glenn Chalder: We'll have some examples from other towns around the state, what we may come back with is sort of a menu, maybe an a la carte type of menu of criteria considerations

that you could add or consider or language you find appropriate and take a look at that, and then that would supplement what we have in here today to give you additional standards and criteria to consider.

Chairman Pruet: Any other thoughts on that. I think it's a pretty good way to start.

VIII. **PETITIONS FOR SCHEDULING** (TPZ April 25, 2012 and May 9, 2012.)

Glenn Chalder: There is no, we moved Azteca onto the agenda kind of quickly but there is nothing else pending at this point in time, so you have carried some of those applications over and nothing new is scheduled at this time.

IX. **REMARKS BY COMMISSIONERS**

Commissioner Aieta: I'd like to, we've talked about this before and I just want to make sure that the Commission is acting so we don't get into some kind of a problem in the future with a law suit. When we have these proposed motions, these draft motions, I feel that it is inappropriate that we have these, we should develop these motions at the table and have discussions whether this, a consensus whether it should be approved or not, and we should develop the conditions and the findings and then the staff should take that input from the Commission and go back and develop a motion based on the input from the Commission. This gives the appearance of a pre-judgment by this board without us, we have a paper here that says we are going to approve this with these conditions and we haven't even heard it. I mean, it gives the appearance, I think a sharp attorney would take this and crucify us with this in court if they wanted, and I'm not, you know, it's been done this way for a long time, I'm not just saying we do it, that we've started doing this. I think that we should develop these motions here at this table. That this Commission, that these Commission members should develop with the input from the staff and the help of the staff and then come back at the next meeting and be able to act on them. Now, I'm not saying every little one, like some of the stuff that came in, the carnival and stuff like that, that is stuff we could move along and help the people in the town and not hold them up and jerk them around for an extra three or four weeks, but on some of these substantial items we should be doing this a different way because I've just got this feeling that we're going to get caught, and we're going to be taken to court and someone is going to say, what the hell, they just sat down and they already had a motion already prepared and how the hell does that happen? How do you have a motion when they haven't even discussed it and they haven't even heard it? I'm not an attorney, Michelle is, I don't know, am I wrong? Am I way off base with this? I don't think I am.

Chairman Pruet: I'll give you my thoughts. Like you said, we have been doing this for a while. If you notice, it says Draft Suggested Motion, so it's not, you have to start somewhere, it's like a building block. You have to put something together from previous motions, so, I mean, these draft motions weren't just plucked out of the air, they were constructed from previous comments from the Commission to start a process, and if you notice too.....

Commissioner Aieta: Dave, let's take, I hear what you are saying, but let's just take the first thing, the first one on the sculpture thing. We've never discussed it, we've never discussed them coming in, I never knew they were using Puerto Vallarta parking for their parking, I didn't know they were using that, I didn't know that the Brockett St., they were parking on Brockett St. How does that come about if we didn't hear it?

Commissioner Woods: Who is going to decide which ones are small and which ones are big? To somebody, this would look like a nothing thing, when it's like, oh he's coming in, he

only wants to teach one or two students, so who plays judge and jury to say, oh, that one's okay, we can vote on that one and.....

Commissioner Aieta: Well, we can develop on those type of issues, like the carnival, we can develop those motions right here at the table if they are that simple. Maybe I'm just talking for myself and no one cares.

Commissioner Carillo: That's what this is.

Chairman Pruet: It's a process.

Commissioner Aieta: It is not. That's not what it is, this is a pre-determined, pre-written approval.

Commissioner Carillo: It's a suggestion.

Commissioner Aieta: It's an approval, an approval with conditions on it.

Chairman Pruet: Well, I disagree with you, maybe the format.....

Commissioner Aieta: Do they do this in other towns, is this how they act?

Glenn Chalder: They do. The question in a sense is that some towns handle it a little bit differently but the idea here is, if the Commission was to feel comfortable on an application it can give you the tools to move ahead, if you are ready and that is your call. But in a sense what many communities do is the staff report gets prepared and gets distributed let's say in front of the meeting, and the applicant comes in, he's had a chance to see the staff report, and communicate back to staff.....

Commissioner Aieta: But we don't have this a month before or a week before, we get this on the table.

Glenn Chalder: Staff reports did go out, correct?

Chairman Pruet: Yes.

Glenn Chalder: A staff report from me with the colored aerial photographs on them. Okay, now that was for the auto related uses. So we had created.....

Commissioner Anest: You know what would be nice to have.....

Commissioner Hall: The draft motions. We don't have draft motions in our packet but we have.....

Glenn Chalder: In essence what many towns do is create staff reports after reviewing an application and a line is drawn if you will in the sand and the staff reports are sent to the Commission before the meeting, and to the applicants before the meeting and the issues are teed up for discussion. So for example, the joke would have been tonight's theme is going to be parking and noise. Those are the main themes on our agenda. The applicant would know what to focus on in their presentation and the Commission would know what the issues are that they would likely be facing so that you have some time to ponder it, but the motion is really a way to kind of organize some stuff so that if a motion were to be made, nothing gets lost in the process. So, in a sense all we did here tonight was, knowing that Ed had put

together in the past some suggested motions for discussion, we took the staff report and turned the wording from you know, the applicant needs to provide more information about this, into, the Commission finds that, thinking that if you were going to make a motion, that you would have gotten to that stage. So we are not trying to guide, or pre-judge an application for the Commission. If you felt you were ready to move, this would be language that you could use as a framework to build from.

Chairman Pruet: And the process does work, because if you notice, we dissected the motions and we tabled the ones that we thought weren't sufficient and we approved the ones that were pertinent, so it is a useful tool, it's not prejudged, it's a building block to go forward, that's my opinion.

Commissioner Anest: Can I just say, I like having them, and I like what we did tonight, because we were able to read the motion and then, said wait a minute, this isn't the wording we want, let's go back to the drawing board, and I like that dialogue that we had this evening, and then we modified other ones. We made modifications. I think that is what we need to do, we can't just, we need to be able to talk about the motion and modify it if it needs to be modified. So by doing that, the staff is not prejudging it. It's a good thing for us.

Commissioner Aieta: This pushes this to the point where we have to make a decision the same night and that is the point that I'm trying to make.

Commissioner Hall: But we didn't.

Commissioner Anest: No we didn't.

Commissioner Aieta: We rush into some of these thing without.....

Chairman Pruet: I don't think we did. The process worked tonight.

Commissioner Sobieski: As a suggestion, could we possibly have this done in red? Because these are copies, I'm sure the original is probably done in red, but I mean, looking at it really quick, all you see is the AFT here, you don't see the rest, I mean, it's only a suggestion. Get a stamp or something. Just put it on the copy.

Chairman Pruet: Gotcha.

Glenn Chalder: I think that was the staff report that I understood was going to go out to the Commission members beforehand. It gave you an aerial view of the site so you could question about how close to the uses to Fat & Happy, you could see the residences and gives you a sense of the uses, or Azteca, oh yeah, I know where that is, and then the staff comments that we are concerned about. I think the only difference really, on the draft motion is that in certain cases, we added some findings because it seemed that that's what Ed had done in the past, and then the conditions were really the staff comments converted to, okay, we understand that, this is the way it is going to be.

Commissioner Aieta: If no one else has an objection to it, then continue to do it. I'm putting on the record that I have an objection to it and if it comes to a lawsuit at least I can say, well, I am not part and parcel to that.

Chairman Pruet: Any other Commissioner comments?

X. STAFF REPORT

None

XI. PUBLIC PARTICIPATION
(For items not listed on agenda)

None.

XII. CLOSING REMARKS BY CHAIRMAN

Chairman Pruet: I would like to thank and commend our consultant Glenn Chalder for his guidance, his professionalism, we used him on our ten year plan. He's filled the void of the vacancy of the Town Planner with high grades and I just want to personally thank you and I think the Commission and I think the Commission appreciated your input and your professionalism and hopefully we can see you again.

Glenn Chalder: It was my pleasure to help, thank you very much.

XIII. ADJOURNMENT

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Woods. The meeting was adjourned at 10:10 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary