

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

May 22, 2013

Chairman David 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 AND SEATING OF ALTERNATES**

Commissioners Present

Commissioner Carol Anest  
Vice-Chairman Michele Camerota  
Commissioner Michael Camillo  
Commissioner David Lenares  
Commissioner Cathleen Hall  
Chairman David Pruet  
Commissioner Stanley Sobieski  
Commissioner Frank Aieta-A  
Commissioner Audra Ekstrom-A (7:10)

Commissioners Absent

Commissioner Kenneth Leggo-A

Staff Present

Craig Minor, Town Planner

**II. APPROVAL OF AGENDA**

Chairman Pruet: Mr. Minor, any changes or additions to our agenda?

Craig Minor: Yes sir, I recommend that you delete item III B, Petition 20-13, Special Exception for a Place of Recreation. It's been withdrawn by the applicant, and I recommend that you add under IX, Petitions for Public Hearing, add Item C, application 31-13 for a frozen Yogurt store at 10 East Cedar Street, and you have that application on the table in front of you.

**III. PUBLIC HEARING:**

- A. Petition 18-13: Special Exception (Section 6.2.4: Freestanding Business Sign) at 3573 Berlin Turnpike (Gateway Plaza). Brown Realty LLC, owner, James Brown 59 Cove Road, Lyme CT, applicant/contact. Continued from May 8, 2013.**

Chairman Pruet: I see our petitioner is here, Mr. Brown, Good evening.

James Brown, 59 Cove Road, Lyme: Good evening Mr. Chairman.

Chairman Pruet: Step right up to our famous chair there.

James Brown: Commissioners, thank you for the opportunity to speak to you this evening. I'm here in regards to the pylon sign for the plaza. The calculations for the sign for the plaza have been discussed with the Zoning Enforcement Officer and the Town Planner, I believe the number reflects that we are well within our allotted signage. That's really all I have to say unless anybody has a question. From a purely aesthetic stand point we are trying to use some of the materials that are in the existing plaza, so we like to think that the pylon sign adds something other than pure signage, so there is a certain amount of aesthetic appeal to the sign itself. If there are any questions?

Chairman Pruet: Very good. We'll get comments from Mr. Minor, our staff point of view.

Craig Minor: It complies with the regulations, so I have no comments on that.

Chairman Pruet: Very good, Commissioner comments for Mr. Brown? Okay, seeing none Mr. Brown, you can take a seat. This is a public hearing, we're going to call upon the public. Anybody from the public wishing to speak in favor of this petition? Anybody from the public wishing to speak against this petition? Seeing none, what is the pleasure of the Commission on this? Close it and move it to Old Business? Okay, we're going to close it and move it to Old Business and vote on it tonight Mr. Brown.

- B. PETITION 20-13: Special Exception (Section 3.15.6: Place of Recreation) at 102 Pane Road. H & H Investments LLC, owner; Bounce Around Inflatables LLC, applicant, Santiage Gil 50 Woodruff Circle, Berlin CT contact. Continued from May 8, 2013.**

Withdrawn by Applicant.

- C. Petition 25-13: Special Exception (Section 6.6.2 Sell or Serve Alcoholic Beverages) at 3575 Berlin Turnpike ("Chipotle") Chipotle Mexican Grill of Colorado, LLC, applicant, Brown Development LLC, owner, Curtis White, 1401 Wynkoop Street, Denver CO contact.**

Chairman Pruet: Is the petitioner here from Chipotle?

Michael Beer: I represent Chipotle Grill and my address is 2 Chambers Street.

Chairman Pruet: Could you just briefly describe your request for your petition?

Michael Beer: We're requesting a liquor license for sales at our location. We serve a very small variety of beers, bottled and then two different kinds of Margueritas.

Chairman Pruet: Any comments from our staff?

Craig Minor: Yes, I can confirm that this is at least 500 feet from any other place of business serving alcohol. I did have a concern that didn't get into my memo, but it occurred to me after I prepared the memo that Chipotles has outdoor dining, and what are their thoughts about the alcohol, so I called Mr. White in Colorado and what he said that he is planning on doing, and he had already thought about this, because he knows that he is not allowed to have alcohol outside, they are going to post a sign on the door saying that alcohol is not permitted outside. Now, whether the State Liquor Commission will give him a permit on that basis, that's obviously up to the State Liquor Commission, but my suggestion is that if there are no other objections to the application, and the Commission is inclined to approve it, approve it with the stipulation that the applicant will enforce the no alcohol outside of the building rule.

Chairman Pruet: Okay. Commissioner comments? Seeing none, sir, if you will take a seat, this is a public hearing, anybody wish to speak in favor of this petition?

James Brown, 59 Cove Road, Lyme: I'd like to speak in favor of the petition. I have spoken to corporate about this, it accounts for less than a half a percent of their sales, it's a small adjunct to it, the space that is set aside for it is actually smaller than this section that I am sitting at. It's not even a full service bar really, it's just the two items that they sell, and it's something that, I don't have a problem with it. If it were a full bar or something, I might ask some questions, but this is only a very small part and it goes very well with their operations.

Chairman Pruet: Thank you Mr. Brown. Anybody else from the public wishing to speak in favor of this petition? Anybody from the public wishing to speak against this petition. Seeing none, what is the pleasure of the Commission on this? Close and move it forward? Okay, we're going to close this and move it forward to Old Business and vote on it tonight.

**D. Petition 27-13: Special Exception (Section 6.2.4: Free-standing Business Sign) at 266 Kitts Lane ("Tyne/Dale Electrical Contractors" ) Hartford Sign and Design, applicant, Redphin Associates, owner, Darin Senna, 304 Murphy Road, Hartford, CT, contact.**

Chairman Pruet: Is the petitioner here tonight from Tyne/Dale? Seeing that the petitioner is not here, we will just leave this open, and will table it for this portion of the meeting.

IV. **PUBLIC PARTICIPATION** (for items not listed on the Agenda, each speaker limited to two minutes.)

None.

V. **REMARKS BY COMMISSIONERS**

None

VI. **MINUTES**

A. May 8, 2013

Commissioner Sobieski moved to accept the minutes of the May 8, 2013 Regular Meeting. The motion was seconded by Commissioner Camillo. The vote was in favor of the motion, with five voting YEA and two abstentions. (Lenares, Anest)

VII. **NEW BUSINESS**

**A. Petition 14-13: One-Lot Subdivision Approval 32 Brooks Edge Drive (Lot #6), Frank Kowal, owner/applicant/contact.**

Chairman Pruet: Just for the record, I'm going to, when the voting comes on this petition, I'm going to be recusing myself because I have had personal business with Mr. Kowal, and also I live right in the neighborhood, so when voting comes, I will recuse myself.

Commissioner Hall: That is why I chose not to read it, because I too will have to recuse myself. I do live in that neighborhood, and actually am a member of the Board of Directors for the Brooks Edge Home Owners Association, so I will not be voting, but I feel that I

probably will have something to add to the conversation, information, so therefore I would like to stay, but when it comes time to vote, I will not be voting.

Chairman Pruet: Is the petitioner here tonight? I don't see a representative for this petition here. So, we could be tabling this petition.

Craig Minor: Mr. Chairman, can I have a little discussion before you do that?

Chairman Pruet: Sure.

Craig Minor: Just kind of a housekeeping thing. The deadline to make a decision on this is June 12<sup>th</sup>. Now you can always ask the applicant for an extension and it would certainly be, well, I've had it for a while, trying to research the history of it, why it didn't get approved. I had to go up to what is called cold storage to find out why it didn't get approved, and so anyway, that is why we are running out of time, but I'm sure the applicant, and I will contact him afterwards will give you an extension. The thing that I wanted to talk about is, if the Commission wants to hold a public hearing because there is apparently some local interest in the application, you always have the right to hold a public hearing. It doesn't automatically give you more time, you still have to ask the applicant for his consent to keep, to extend the decision deadline, but if you feel it is in the public interest to hold a public hearing on it, you can do that.

Commissioner Aieta: This is a subdivision, a re-subdivision, what is this? I don't think you can just arbitrarily say you are going to have a public hearing.

Craig Minor: Well, I wouldn't say arbitrarily, you could do it, you could do it on a case by case basis, if you feel that it is warranted, so, is it a re-subdivision or a subdivision? When it first came in, my first thought was, well of course it is a re-subdivision, it's creating a lot that did not exist before, in an established subdivision. But then as I am likely to do, I went back and read the statute to the actual specific definition of a re-subdivision, and the definition talks about creating, I shouldn't paraphrase it, but a lot that was not at least identified on the original map, and this parcel, I'll call it a parcel, this parcel certainly was identified on the original map. It was not approved as a building lot, but it certainly is shown on the map that was approved by the Commission, so I think technically it is not a re-subdivision, but, the Commission does have the discretion if it wants to, to hold a public hearing.

Commissioner Aieta: I would have to debate you on that. I don't want to start a precedent that we start having public hearings on housekeeping and administrative stuff, I mean, it's, I don't see anywhere in the regulations that says that we have the right to hold a public hearing on a site plan or, this is already an established lot.

Craig Minor: Well....

Commissioner Aieta: I don't start having public hearings on stuff that we're opening ourselves up for trouble in the future, I mean, then we, people could want this, this and this, I mean, it's cut and dried, what you can have a public hearing on and what you can't. I mean it's not a discretionary opinion of the Commission when we can have it. It either is a public hearing, or it's not, and this is not a case where this is a public hearing.

Chairman Pruet: Gentlemen, are you here for a certain petition?

Audience: Sign permit.

Chairman Pruet: Okay, Tyne/Dale, okay fine, I'll get to you in a second. We could discuss this tonight, because we have some members, before I officially table this Petition 14-13, we can discuss what Mr. Minor had to say, Mr. Aieta, and any other comments from the Commission.

Commissioner Camerota: One of the things that I read from Mr. Minor's report on this petition is the difference in the lot size. Can we get some kind of consensus, or can you look into whether or not we can require them to comply with (inaudible), I mean, to me, it's been so long, I feel that when you wait that long, you should be held to today's standards. I just would like some more information on whether we can, because my feeling is that they should comply with today's standards.

Commissioner Aieta: If this is something that we are pressing on time, then maybe we should hear it and act on it. If you can going to be pressed, what if the applicant says I don't want to, does he automatically get approved, or.....

Commissioner Camerota: Our next meeting is the 12<sup>th</sup>.

Craig Minor: What would happen, yes, next meeting is the deadline. You would have to make a decision by the next meeting, but what you can do, you can deny it. If he won't give you an extension, deny without prejudice.

Chairman Pruet: In following up, if you could mention to the Town Attorney too, what you mentioned, that was something I haven't, I've been on this for a while, and I haven't, I'm not saying it's not possible, but I don't think it is the norm, so if you could get Mr. Boorman's opinion on that.

Commissioner Sobieski: I'm a little concerned about the depth of the back lot. All our regulations say twenty five or thirty foot back lot, and between the back of this structure and the end of the property, I don't see how you are going to get that in there. I could be wrong.

Craig Minor: The current regulations require thirty feet.

Chairman Pruet: You're right Stan, and also too, we have a, have some memo's here from our engineer, do you want to, does everybody have a copy of that?

Craig Minor: I asked the Town Engineer to look at the developability of the parcel, because it is rather steep, and it's small.

Chairman Pruet: Let's just let Mr. Minor read this.

Craig Minor: "Mr. Minor, In review of the proposed (concept plan) for the above referenced site I offer the following concerns:

1. Drainage (Major concern to primary lot and neighbor down gradient)  
There are many drainage factors to consider that will challenge the orientation of any proposed house at this location. The proposed house location (footprint) will intercept the channelized flow (off site #9 and 15 Kowal Court) and exacerbate the flow condition in a manner such that it potentially re-directs flow to the house 15 on Brooks Edge. A more comprehensive drainage analysis may reveal the need for a traditional drainage system (basin & pipe – preferred) rather than the swale shown. There is a drainage system in the roadway that can provide an outlet and/or connection. Assuming "any household may require a "bilco", deck, basement window, and/or air conditioning unit will only further challenge the proposed drainage design efforts.

2. The lot slope will be dramatic and therefore require a retaining wall to facilitate the drive and house access.

3. The roadway sidewalk appears to encroach upon the property in the front yard.

Please contact me if I can be of any further assistance in this matter.

Chris Greenlaw, P.E. Town Engineer

Chairman Pruet: And you have other communication on this?

Craig Minor: Yes, I received four e-mails from neighbors who are concerned about the application. Those e-mails are in front of you. Do you want me to read.....

Chairman Pruet: Yes, if you could please.

Craig Minor: Okay, the first one is from Stephen and Sandy Weinberg, 33 Sunnybrook Drive. "Sandy and I don't believe the lot that Frank Kowal wants to build on is big enough and there is a question about run off in that area.

The next one is from Ronald A. Rizzo, 7 Brooks Edge Drive. "I am writing to express my disapproval in the matter of Mr. Frank Kowal's bid to build on Brooks Edge Drive. This parcel of land was deemed unbuildable in the original site plan because of the small area as a building site. Also, a runoff of any water or debris would hinder the area and detract from the overall appearance of the site. Please strongly consider a "NO" vote on approving Mr. Kowal's bid for a building site/permit

I have another one from Barbara Demaio, 17 Sunnybrook Drive. "To the members of the town Planning and Zoning Commission. I have lived in the Brooks Edge subdivision for 29 years. It is my understanding that a builder would like to build a house on Brooks Edge Drive on a parcel of land that is too small to have a house on it. A house on this parcel would severely impact the privacy of the homes near it; create an eyesore in our neighborhood by making it look like the homes were squeezed together; and lessen the value of the homes in the entire neighborhood.

I strongly encourage the members of the TPZ to physically look at this substandard parcel and reject this building proposal.

Thank you for your consideration of the residents of Brooks Edge.

I have a fourth one, this is from Dennison F. Smith, Treasurer, BEHA. " Dear TPZ Board Members, I would like to express my opposition to the proposed development on the property on Brooks Edge Drive.

I have been a Board Member and Officer of the Brooks Edge Homeowners Association for close to three decades and take my job very seriously. One of our most important responsibilities is the safety and security of our neighborhood. I strongly believe any development on this property would compromise both.

As we have been told by the town over the years, the remaining lot is too small to accommodate the construction of a house. The lots in our association are already pretty small. To push those limits any further would threaten the safety of the neighboring properties in case of fire and would most certainly infringe upon their privacy and security. After all these years, I can see no justification for changing the town's evaluation of this property. It has been deemed "unbuildable" for good reason and should remain so. Thank you for your attention to this important matter. Sincerely, Dennis S. Smith, Treasurer, BEHA.

Chairman Pruet: I see that the petitioner came in, Mr. Kowal, if you could come forward and we are discussing your petition. If you could just state your name and address for the record and explain your petition to us please?

Frank Kowal, 25 Webster Court, Newington: This has been a, well, I won't say an approved lot, subject to final approval because of drainage, or TPZ approval. It meets all the lot

requirements for all of the other lots in the same area and the reason that nothing has been done with it is I just haven't really wanted to pursue anything until I retired. I'm looking to maybe turn around and build a house there for myself.

Chairman Pruet: Anything else on that? Okay. Comments from our staff, any staff comments that you might want to share at this time?

Craig Minor: Well, I gave a history of the parcel and then the larger development around it. This is, this is tricky, because to some extent, the Commission acknowledged the existence of this parcel, thirty years ago, they acknowledged that there were some engineering problems with it, which is why they did not approve it at the time, and the plans that were filed then, and three or four months later both say, well, one says subject to final approval by TPZ and the other says, subject to field approval by TPZ, which is an interesting discrepancy, and I don't think it's significant, but for some reason, one draftsman said final approval and one said field approval, but field approval is probably more accurate because that is what the Commission talked about doing, if you read the minutes, they wanted to go out and see for themselves, and I imagine back in the day when they did more field visits, but they wanted to see for themselves after it was developed. Well, now it's been developed, do you want to go out and see for yourself? But let me get back to my point about how it is complicated, because the Commission sort of, I don't want to use the word approved, but gave some acknowledgement that this parcel exists thirty years ago, it's not a simple, well, that's maybe one fact. The other fact is, however the owner has not been paying taxes on it as a buildable lot, his taxes have been significantly, it's been assessed I think at some \$7000.00 and the other parcels are assessed at \$84,000. That's just the land. So he certainly hasn't been paying taxes on it all these years. If he had been, then I would certainly lean towards well, if he has been paying taxes on it, then it's probably an approved lot, and it should be given the benefit of being an approved lot, but he hasn't been paying taxes on it, and it does not comply with the regulations of today. It's only 5100 square feet, the minimum lot size today is 6000 square feet. It doesn't have a thirty foot rear yard, and there is no way it could, because with a thirty foot minimum rear yard of today, and the twenty-five minimum front yard of today, is like a negative. So, I think getting back to Michele's comment, your suggestion that we get a town opinion on this, I think is a good one because this is gray, this is a gray area.

Chairman Pruet: Thank you. Further Commissioner comments?

Commissioner Hall: I'd also like Chris to go out, Chris Greenlaw to go out and find all of the drains, because there are drains out there, and you will see that they are large, and they are large for a reason. There's one off from Rockledge, that comes down to Kowal and also from Brooks Edge. So there have been drains in there through the years, that sometimes get clogged and some basements get full as well. There is a large grate not too far from this site, so if he could go up and take a look at where those are, I think that would be very interesting.

Chairman Pruet: All set?

Commissioner Hall: It's just, if you look at the site, the houses in back of it are at a significant elevation from this house, where this house would be and therefore you really have to think about that.

Commissioner Aieta: On the approval, or thirty years ago when this was brought up, there was a certain set of regulations that they complied with. No action was taken on this lot until now, thirty something years later, and then the regulations have changed. Which set of regulations are we going with? We, it was not an approved lot, it was subject to the TPZ approval, and it hasn't been approved. This is the sitting TPZ, you have the right to approve

it. We'll verify what is there and make an approval, but what set of regulations are you going to work under? The thirty years ago regulations which had certain regulations, stipulations, certain side yard, certain requirements, or the regulations as they sit today. I think that is a question that you should ask the Town Attorney.

Chairman Pruet: Further discussion on this?

Commissioner Hall: Leaning from that, I just think that if we go with old regulations, what's to keep anybody to not come before us and say, well, in my neighborhood, frontage used to be fifty, I've got a fifty foot parcel here, I want to go back to the time when I could do a fifty foot lot, I want it approved. We have to be careful.

Commissioner Sobieski: There were three lots on Stoddard Avenue and what happened was, they were fifty foot lots and he tried to get a building permit and the Planning and Zoning said they had to be sixty or seventy foot lots, and he was paying taxes at that time for three building lots at fifty feet and he ended up with only two lots.

Commissioner Aieta: But that's not the case here, because he hasn't been paying taxes as a building lot, he's paying taxes as a parcel of land.

Chairman Pruet: There are some legal concerns surrounding this petition that we have to get clarified. I'm recommending that we keep the petition open until we get further information on that. We're going to keep it open Mr. Kowal until we get further information so we can address it properly for you.

Frank Kowal: Thank you.

Chairman Pruet: Thank you. We're going to get back to Tyne/Dale. We tabled it, but now I'm going to un-table it because you are here now, how's that?

Commissioner Lenares: Do you want to re-read it.

Chairman Pruet: Yes.

**D. Petition 27-13: Special Exception Section 6.2.4: Free standing Business Sign at 266 Kitts Lane (Tyne/Dale Electrical Contractors") Hartford Sign and Design, applicant, Redphin Associates, owner, Darin Senna, 304 Murphy Road, Hartford, CT, contact.**

Chairman Pruet: If one of you gentlemen would step forward and state your name and address for the record and just briefly describe this petition.

Darin Senna,: I'm from Hartford Sign and Design, and we're asking for permission to erect a sign.

Chairman Pruet: Okay, we have information here. Mr. Minor, any staff comments on the petition.

Craig Minor: No, it meets the regulations and in my opinion, looking at the sign, and driving through the neighborhood, it's appropriate for that neighborhood. It's an attractive sign.

Chairman Pruet: Commissioner comments?

Commissioner Aieta: I think you guys did a great job with the landscaping there, and the sign for that piece of property is appropriate and I hope that the Commission will move it tonight and approve it.

Chairman Pruet: Okay, this is a public hearing, you can take a seat. Anyone from the public wishing to speak in favor of this petition? Anyone from the public wishing to speak against this petition? Seeing none, what's the pleasure of the Commission on this? Close it and move it to Old Business, we're going to vote on it tonight.

**B. Petition 23-13: TPZ Approval of Outdoor Restaurant Seating at 24 Fenn Road ("Mooyah's,) Hayes Kaufman, Newington LLC, owner, Mooyah's Fenn LLC, applicant, Matt Rusconi, 45 South Main Street, West Hartford, CT, contact person.**

Chairman Pruet: Is the petitioner here tonight from Mooyah's? Come forward and have a seat, state your name and address for the record and briefly describe your petition.

Matt Rusconi, 45 South Main Street, Suite 206 West Hartford : Hi, we are looking to put some outdoor seating at Mooyah's Burgers, Fries, and Shakes. You guys have the plans, and basically we would just like to use some of the space out there, and put a small patio, we have no alcohol so that is not an issue, and it shouldn't be too much. We feel that it shouldn't disrupt any of the parking or anything, because we don't think it will draw extra people, it will just displace people from inside the restaurant to the outside, so that's our wish.

Chairman Pruet: Staff comments on this?

Craig Minor: In my staff memo I was initially a little concerned with the proximity to Fenn Road, but with the change in elevation, the difference, aesthetically it is set back, so I'm not concerned about that.

Chairman Pruet: Very good. Commissioner comments on this petition?

Commissioner Camerota: Are you leaving this all grass, or are you planning to put some concrete or gravel down.

Matt Rusconi: Concrete or gravel.

Commissioner Camerota: Okay, and how many tables?

Matt Rusconi: I'd say somewhere in the, eight tables, something like that, like sixteen extra seats.

Commissioner Anest: Are you putting fencing around it?

Matt Rusconi: There will be a slight barricade around it. I'm not sure we will do a full fence, but it will be something to kind of separate it from the hill that goes up to the street.

Commissioner Aieta: You have to be a little more specific about what you are doing there. It says proposed patio, what is the material going to be of the patio? Is it stone, is it brick, is it pavers, what is it.

Matt Rusconi: It's going to be concrete.

Commissioner Aieta: You are showing some kind of a barrier. Is that a wall or a fence or a railing, what is it?

Matt Rusconi: What would you guys like, we're open.

Commissioner Aieta: Maybe a block wall or something.....

Commissioner Anest: A wrought iron fence?

Matt Rusconi: Would you prefer a fence?

Commissioner Aieta: Well, like a railing, some type of a wrought iron railing or something to delineate where the patio is. You're showing four tables, is that what you are asking for?

Matt Rusconi: Well yeah, as far as it goes, is, we're, we'd just like some seating out there, whatever is acceptable, we'll make happen, so, I mean, if it's four tables and four chairs, that's sixteen seats, as I said before, eight tables, two chairs, that's what we are looking at.

Commissioner Aieta: Just to finish up, what type of a table is it?

Matt Rusconi: What type of a table is it?

Commissioner Aieta: You have seen the ones that Dunkin Donuts puts out, we've seen some that, people just put out a picnic table, I mean, we prefer stuff like Dunkin Donuts puts out, that type of a thing, I mean, you are right on the main drag, people are driving by there, you're right on Fenn Road.

Matt Rusconi: Right, right.

Commissioner Aieta: You want it to look.....

Matt Rusconi: Right, we're not going to put lawn chairs. We'll probably put circular tables like we have at a lot of our other restaurants, maybe iron tables, black, that have four chairs that go along with it. We have them, we just did that up at Storrs Center, downtown, Mansfield, a new development there and we had some very nice tables there for the outside seating, so I will be going along the same lines.

Chairman Pruet: But you understand, we want specifics so that we can make sure.....

Matt Rusconi: Sure, I can send you pictures of those tables, I can get them before I leave here if you would like.

Chairman Pruet: The four tables with the wrought iron fence, specific for the record.

Matt Rusconi: Okay, that's four tables, four chairs, wrought iron fence and we'll do the concrete patio.

Chairman Pruet: Other comments from the Commissioners on this? What is the pleasure of the Commission?

Matt Rusconi: I have it here, would this be something that you would like?

Commissioner Aieta: Can't see it.

Commissioner Aieta: That's exactly what we are looking for.

Matt Rusconi: That's what you want?

Chairman Pruet: That's perfect, if you duplicate that, it would be perfect. The pleasure of the Commission on this, to close it and move it to Old Business? Okay, that's the consensus, we're going to close this and move it to Old Business and vote on it tonight.

Matt Rusconi: Thank you.

**C. Petition 26-13: Zoning Amendment (Section 6.2: Signs), Town Plan and Zoning Commission, applicant/contact.**

Chairman Pruet: I'll just have Mr. Minor paraphrase what we have done so far, and then we will open it up for discussion.

Craig Minor: This started with a request that came from the Mayor actually, that the Commission look into its temporary sign regulations. The feeling was that some of the violations that we have been getting with temporary signs stem from the fact that the sign regulations don't really address the needs of the business community number one, and number two, they are maybe not that clear, and I know definitely in one case we have not been applying it the way that the regulation was actually written. So a sub-committee was formed involving several members of the TPZ, the Mayor, myself, Art Hanke sat in on the first couple of meetings, and the result of those meetings is the draft that is in front of you, with one additional item. At the request of the Economic Development Director I added a paragraph that would, under very certain circumstances allow a major activity that is near a major street, but not visible from that major street, would be eligible by special exception, for an off site sign, which is very much out of keeping with most of your sign regulations, so this would not be something that I would propose lightly and I think that if it was adopted the Commission would not grant lightly, but I do think there are situations in Newington where it might be appropriate, so I put that in there and I'm saying that the committee did not see it, it was something that I initiated.

Chairman Pruet: We have discussed this, you had it in your packet, if we could come to a consensus on this petition tonight, modify it, until we close it from our standpoint, and then we would take it to a public hearing. So I'll open it up for discussion on how things are so far.

Commissioner Anest: A couple of things Craig, we really didn't, the subcommittee really didn't fine tune the things that we wanted to bring forth. The second issue that I have is that I think you should have brought the Economic Development Director in front of the subcommittee to discuss this addition, and now you are just throwing it at us, and I want specifics, specific businesses that could be affected by that, because number one, I don't want it to be, I mean, there are too many signs, and if business has a sign on the building and a sign at the end of the street, and there are no requirements on what size the sign is going to be or anything, we need more specifics, so I think that, he needs to come before the committee. The second thing is, we talked about the signs on trucks, we didn't fine tune that either, and that has to be part of this whole package. This really isn't ready for us to really fully discuss this, to close, and to put it to a public hearing. There are a lot of unanswered questions that we have.

Chairman Pruet: I agree with you, and what I wanted to do was I wanted everybody to look at this. I wanted everybody's input in lieu of the sub-committee, but if you feel that we should go back to a sub-committee to discuss it further, I have no problems with that, or open it up to

everybody and have their input. There is no time table on this, nobody has the clock running on this, so we have plenty of time for discussion, so if I can get some feedback from the Commission here, would you like this to go back to the sub-committee to research it, or would you like to keep it open for everybody?

Commissioner Aieta: As a member of that sub-committee I don't think that we finished our charge with this, to fine tune the regulations. I don't think we finished that, and I think procedurally it is incumbent upon the sub-committee to move it forward to the, in the fashion and in the finished form that this Commission could look at, and we haven't done that. As a committee we never even voted to move it out of the committee back to this Commission, and there are certain areas of the regulation that we talked about that we haven't come to any conclusion, and then as far as this other addition, that has to come before the committee, the subcommittee before you can just bring it, I mean, it's the horse before the cart here.

Chairman Pruet: I agree with you. I think it would be appropriate to, we'll reconvene the sub-committee and we'll hash this out and we'll come up with a date, I'll e-mail everybody and see what is compatible for everybody, and we'll have Mr. Brecker come and discuss it too. Okay, very good.

**D. Petition 30-13: TPZ Approval (Section 3.23.1: Accessory Outside Use for Fireworks Tent Sale at 3164 Berlin Turnpike (Walmart) TNT Fireworks, applicant; Newington VF LLC, owner, Brian Kearney 56 Prospect Avenue, West Haven, CT, contact.**

Chairman Pruet: Is the petitioner here tonight representing, okay sir, have a seat, state your name and address for the record and briefly describe what you want to do.

Brian Kearney, 56 Prospect Avenue, West Haven: First of all thank you Mr. Chairman, Commissioners for seeing me this evening. I am here to petition for accessory outside use for the sale of Connecticut fire works at 3164 Berlin Turnpike, Wal-Mart. We have done it in the past, 2012 we did not do it, and 2010 and 2011 we did. Do you have any questions?

Chairman Pruet: Could you describe the tent and what else you are going to.....

Brian Kearney: Sure. It's a 20 x 40 tent, it's located at the end of row four in the Wal-Mart parking lot, like I said, it's 20 x 40 and it will be there from June 20<sup>th</sup>, to July 10<sup>th</sup>. The reason that we would like to keep it open a little bit longer than we have in the past is because the 4<sup>th</sup> falls on a Thursday, we want to keep it open that extra weekend to pick up additional business.

Commissioner Aieta: I'm looking at the site plan of where you want to put the tent, and that's, and that parking area there is overflow parking from Panera Bread. I mean, on any day of the week that you go there, that whole area adjacent to Panera Bread is full of cars, and that's basically where they have been parking.

Brian Kearney: Is there another location that the Commission suggests, and I'm sure Wal-Mart as well.

Commissioner Aieta: Have you approached Panera Bread, have they signed off on it? I don't know if they have to, but it's, as a good neighbor, you should contact them.

Brian Kearney: Right, I don't know that they have to, but as a good neighbor I would go over there and just kind of say, this is what we are doing. It's been approved by Wal-Mart, it's Wal-Mart's property.....

Commissioner Aieta: They approved this location?

Brian Kearney: Yes sir, they did.

Chairman Pruet: Let me get the staff comments, then we will have the Commissioner comments.

Craig Minor: I did run it by the Fire Marshal for the location, and the Fire Marshal has no objection to the location. We will of course want to inspect it more carefully as a fire works place, as will the Building Inspector, so if there is an approval it would be with the condition that he needs to obtain the appropriate permits from the Fire Marshal and the Building Department. The Fire Marshal did sign off on the location.

Commissioner Anest: I have a question. Wal-Mart is not going to be starting any work there before that period?

Craig Minor: I don't know.

Commissioner Anest: I'm just concerned only because if you go to the other Wal-Mart's where they are expanding, there is no parking, so I'm just concerned, if Wal-Mart is going to start, it's going to be.....

Commissioner Aieta: And they do have an approval.

Commissioner Anest: Right, and I do know that Bassett is already out of there, because I know with the fences that they are putting up, so if you go to the other Wal-Mart's, there is no parking anywhere, so I'm just concerned about they might start their construction.

Commissioner Aieta: When you did have this in past years, was this the tent location.

Brian Kearney: Yes sir.

Commissioner Aieta: It was?

Brian Kearney: Yes.

Commissioner Aieta: And Panera Bread was there?

Brian Kearney: Yes.

Commissioner Aieta: Then I have no problem with it.

Commissioner Hall: My only question is, there are twelve tables plus walking aisles, and according to this diagram, I know it's hand drawn, it's only four, four and a half, five parking spaces. How are you going to put all of that, twelve tables, walking aisles, space around the tent, in five spots?

Commissioner Aieta: It's fifty something feet.

Brian Kearney: It would take up approximately five parking spaces wide, and two deep, that would be there. That's not drawn to scale.

Chairman Pruet: Will there be a trailer to store these at night, or a security guard or something?

Brian Kearney: Yes, a trailer will be located right next to it.

Chairman Pruet: Okay, further comments?

Commissioner Anest: The trailer is going to be in addition to the five parking spaces?

Brian Kearney: That's correct, it will be on the short length side of the tent, the twenty foot....

Craig Minor: So you will be consuming six parking spaces wide by double.

Brian Kearney: Right.

Commissioner Hall: Twelve

Brian Kearney: Correct.

Chairman Pruet: Further comments from the Commission? So it's on Wal-Mart property, Wal-Mart signed off on it....

Commissioner Hall: The only thing I would again mention because we have had it in the past, the signage because they tell us that they are just going to have a sign on the tent and then all of a sudden we have things all over town, so that is something that we are pretty rabid about. Just be careful about the signage.

Brian Kearney: Absolutely.

Chairman Pruet: We did have major problems in the past with putting them on the state right of way and, which is against our regulations. Recommendations from the Commission to close it and move it? Okay, we're going to close it and move it to Old Business and we will vote on it tonight.

Brian Kearney: Thank you very much.

## **VIII. OLD BUSINESS**

Craig Minor: These are in numerical order, not necessarily the order of the agenda because I wasn't sure how they would end up going, so they are just in increasing order.

### **Petition 18-13**

#### **Special Exception (Section 6.2.4: Freestanding Business Sign)**

**3573 Berlin Turnpike**

**Brown Realty LLC, owner/applicant**

Commissioner Camerota moved to approve Petition 18-13: Special Exception (Section 6.2.4: Freestanding Business Sign) at 3573 Berlin Turnpike (Gateway Plaza) Brown Realty LLC, owner, James Brown 59 Cove Road, Lyme CT, applicant/contact.

Conditions:

None.

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

Chairman Pruet: Mr. Brown, a very nice job on that project so far, it looks very nice and I wish you the best.

James Brown: Thank you Mr. Chairman.

**Petition 23-13**

**TPZ Approval of Outside Restaurant Seating  
24 Fenn Road ("Mooyah's")  
Mooyah's Fenn LLC, applicant**

Commissioner Anest moved to approve Petition 23-13: TPZ Approval of Outdoor Restaurant Seating at 24 Fenn Road (Mooyah's), Hayes-Kaufman Newington LLC, owner, Mooyah's Fenn LLC applicant, Matt Rusconi, 45 South Main Street, West Hartford, CT, contact person.

Conditions:

None

The motion was seconded by Commissioner Camerota.

Chairman Pruet: I think we should add those conditions of the four tables and the wrought iron fence as conditions.

Craig Minor: And the concrete patio.

Chairman Pruet: And the concrete patio, yes.

The vote was unanimously in favor of the motion, with six voting YEA.

**Petition 25-13**

**Special Exception (Section 6.6.2: Sell or Serve Alcoholic Beverages)  
3575 Berlin Turnpike ("Chipotle Grill")  
Chipotle Mexican Grill of Colorado, LLC, applicant**

Commissioner Lenares moved that Petition 25-13: Special Exception Section 6.6.2: Sell or Serve Alcoholic Beverages at 3575 Berlin Turnpike ("Chipotle"), Chipotle Mexican Grill of Colorado, LLC, applicant; Brown Development LLC, owner, Curtis White, 1401 Wynkoop Street, Denver CO contact, be approved."

**FINDINGS:**

There are no buildings in which alcoholic beverages are sold under any class of liquor permit with 500 feet of this building.

The applicant has stated that signs will be posted prohibiting customers from taking alcoholic beverages outside.

**CONDITIONS:**

1. The applicant shall enforce the prohibition on customers taking alcoholic beverages outside.

The motion was seconded by Commissioner Sobieski.

The vote was unanimously in favor of the motion, with six voting YEA

**Petition 27-13**

**Special Exception (Section 6.2.4: Freestanding Business Sign)**

**266 Kitts Lane**

**Hartford Sign and Design, applicant**

Commissioner Hall moved to approve Petition 27-13: Special Exception (Section 6.2.4: Freestanding Business Sign) at 266 Kitts Lane ("Tyne/Dale Electrical Contractors") Hartford Sign and Design, applicant, Redphin Associates, owner, Darin Senna, 304 Murphy Road, Hartford, CT contact

**CONDITIONS:**

None

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

Chairman Pruet: That's a very nice project up there, it came out very, very nice.

**Petition 30-13**

**TPZ Approval (Section 3.23.1: Accessory Outside Use) for Tent Sale**

**3164 Berlin Turnpike ("Wal-Mart").**

**TNT Fireworks, applicant**

Commissioner Camillo moved to approve Petition 30-13: TPZ Approval (Section 3.23.1: Accessory Outside Use) for Fireworks Tent Sale at 3164 Berlin Turnpike (Walmart.) TNT Fireworks, applicant, Newington VF, LLC, owner, Brian Kearney, 56 Prospect Avenue, West Haven, CT, contact.

**CONDITIONS:**

1. Prior to use of the tent, the applicant shall obtain approvals from the Newington Fire Marshal and Building Department.
2. The applicant shall not place any temporary signs on the ground in front of the property.

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

**IX. PETITIONS FOR PUBLIC HEARING SCHEDULING:**

- A. Petition 28-13: Special Exception (Section 3.15.3: Restaurant) at 32 Fenn Road. Baires LLC, applicant, Hayes Kaufmann Newington Associates LLC, owner, Albert Garrido, contact.

- B. Petition 29-13: Special Exception (Section 6.2.4 Free Standing Sign) at 56 Fenn Road, Wayside Fence Company, applicant 56 Fenn Road LLC, owner, Chris Gueret, contact.

Craig Minor: We have three items. The first item is Petition 28-13 Special Exception Section 3.15.3 Restaurant at 32 Fenn Road, Baires LLC applicant, Hayes Kaufmann Newington Associates LLC, owner, Albert Garrido, contact. Actually this will be a pizza restaurant and the name will be Tango Pizza, Mr. Garrido is Argentinean. So that is ready for public hearing.

Commissioner Aieta: Is this in the plaza?

Craig Minor: Yes, there was a Dollar Store. It is fairly big, and I discussed that with the applicant, but he, from the floor plans, for the amount of parking that he will need for his restaurant will be no more than what the retail operation needed when it was retail. The next one, Petition 29-13 Special Exception Section 6.2.4: Free Standing Sign at 56 Fenn Road, Wayside Fence Company, applicant; 56 Fenn Road LLC owner, Chris Gueret, contact. This is for a freestanding sign which is already there. Apparently the ZEO drove by, saw it and knew that it hadn't gotten your approval, contacted the owner and they came in the next day and submitted the application. I didn't realize that the sign was already there, but when I reviewed their application, I noticed that on their plan they show the line of sight to be on their neighbor's property to the north. The lot, it's a rear lot, and the frontage is so narrow, and it's almost entirely paved, with driveway, I don't know where they are going to put a sign, because it can't be on the neighbor's property, even if the neighbor approved it, we don't allow off-site signs.

Commissioner Camerota: So it's already in the wrong spot.

Craig Minor: Right, it's already in the wrong spot. I have no objection to scheduling this for June 12<sup>th</sup>, and explaining to the applicant that first of all, he needs to provide a spot on his property for the sign before it goes forward. He's got three weeks to do that, so, I mean, you could table it until he fixes it before you schedule a public hearing, but I'm not sure we really need to delay it an extra two weeks. So I would recommend that we schedule the hearing for June 12<sup>th</sup>, but he's got some work to do between now and June 12<sup>th</sup>.

Commissioner Camerota: If he's not ready we can just continue the hearing. But you're right, he has three weeks, that should give him extra time.

Craig Minor: Right. The new one that just came in tonight which we added to the agenda tonight is for a frozen yogurt store at 10 East Cedar Street. That's the little retail building at the corner of East Cedar and Main Street.

Commissioner Hall: On the north side?

Craig Minor: Yes. So I recommend that that be scheduled for June 12<sup>th</sup> also.

Chairman Pruet: I think we can fit that in without a problem.

**X. TOWN PLANNER REPORT**

A. Town Planner Report for May 22, 2013

Craig Minor: Since I did this report last week I had some development in most of these items actually. The façade issue at CVS: The ZEO did pull out the plans that were in front of the Commission when this was approved. I have them with me. The plans do show a square where the window is, and then a smaller square inside of that which I think a reasonable person would interpret that would be somehow raised or at least the optical illusion of it being raised. Whereas, what they have out there now is, there is no raising at all. I talked to the ZEO about this, in his opinion, the applicants have substantially complied with the approval, but, he is your agent, and if the consensus of the Commission is no, the applicants have not complied with the intent of the permit, then he will execute your will. I think there needs to be a consensus from the Commission for him to do that. So, I don't know if you need a vote, but at least a discussion that the Commission agrees that what is out there is certainly not what the Commission expected to see when they approved this project several years ago, and I do have the plans if anyone wants to see them, but like I said, the plans show again, a square where the window is, and then a smaller square inside of that which implies some kind of beveling or.....

Commissioner Anest: What does the approval say?

Craig Minor: The approval doesn't say anything, but our position is that the approval was based on all of the representations that were made, and the representation was that, well, first of all that they be white, that does clearly say that they be white, and it appears that they were supposed to be raised.

Commissioner Hall: So previous to red, I think I remember some kind of framing around it, it was not as blank as it is now. There was something there, so why can't we just have them return it to what it was pre-red.

Chairman Pruet: That is what the previous Commission so stated in their approval, so in my opinion, we should go by what we wanted originally.

Commissioner Camerota: Especially since it is in the town center.

Commissioner Hall: Very visible.

Chairman Pruet: Yeah, they are in that special district and they need to comply with that. Is that the consensus? Okay, you've got your consensus.

Craig Minor: Okay, thank you. The next item, those car parts in front of 127 Fenn Road; Mr. Hanke did speak with the property manager about it, and the property manager did agree to move the material. It hasn't happened in the week since I wrote this, but the manager did agree that they will take care of that. It's a start to get the property manager to acknowledge that there is a problem, and he agreed to fix it. It took a while to get any response from them at all, so this in itself, is progress.

Number of former Newington residents living at New Samaritan: I was asked a couple of months ago to find out how many, at the time that it was first opened, how many of the applicants were from Newington and how many were not, and actually the answer was eleven of the original thirty applicants were Newington residents at that time.

Old Performance Bonds: I haven't done anything on this since last meeting, I do need to talk to the Town Attorney though about being creative in pulling the bonds for projects that

probably are not going to get completed by the applicant's efforts, but I do need to talk to the Town Attorney about that.

Status of the Modern Tire Appeal: I can tell you, for some reason the venue has been moved from New Britain down to Stamford. It's got a new judge.

Commissioner Aieta: Why was it moved?

Craig Minor: I don't know.

Moving forward, Newington Junction Planning Study; The consultants submitted some preliminary sketches of the area, and existing uses. I have reviewed them since then, and I forwarded them to the oversight committee, the Newington Junction Planning Study Committee for them to look at, and we'll, I'm going to try to schedule a meeting for that group next week to look at the draft and then advise the consultants what direction they feel the consultants should go in, and then come back with those plans.

Low Impact Development Regulations Project: We did have a meeting with the consultant earlier this week, and the next step in the process will be for the committee, with the consultant to hold a public information session to explain the whole issue of low impact development to the community and why the town needs to, first of all get a handle on drainage, but also as an issue of future development going forward, so the public information session will be in this room on Monday the 17<sup>th</sup>, at 7:00. All of the land use boards will be getting invitations to it, the Town Council members will be invited to come as well, and there will be a full exchange of information on low impact development at that session.

Finally, the sign brochure, I haven't worked on it since the last meeting, but, oh, you weren't here Carol, I drafted the brochure and spent hours trying to get photographs into it using Word, and it wasn't working, and I found out right away which everyone else probably knows, you can't make brochures in Word, you can't add pictures, it just doesn't work. You can do it in Publisher, and I have Publisher on my computer at home, so I'll just bring in my laptop one of these days and do it that way. It's also, the text of the brochure is on hold also, because we are still working on the regulations themselves, but I can at least get it set up in such a way that when we are ready to go forward it will be ready to go.

One other, the Victory Gardens project is moving along, they have finished the first three buildings, and they are looking for a c.o. for the first three buildings, I was out there today with the Manager and the Town Engineer, looks really nice, but they haven't finished the entire project and so I told them, no problem, the process is you post a bond. You either give us a letter of credit, or a passbook or a CD or some other, or any of those three instruments. Well, they asked if they could, if we would let them provide us with an escrow account. I said, well, that's not on the approved list, but let me bring it to the Commission. I talked with the Chairman about it, and he agreed we should discuss it, and I did discuss it with the Town Attorney and he has no objection to it. It's an instrument that is not in your regulations, as one of the documents that are allowed, but the town is just as protected, the money will be there if we need it, I can provide you with a copy, but the applicants strongly requested this because their funding for the construction project is considerable, but to obtain a letter of credit first of all would require more money, and would involve a delay that they can't afford because one of their deadlines for their funding, for the tax credits that they marketed, is the end of the month. They have to issue c.o.'s by the end of May, so they, number one, they don't have any time to find a letter of credit, but they also expressed that it is more expensive and, to say it's more expensive, if this was a private project perhaps you say, well, that's the cost of doing business, but it is a non-profit and they are creating housing for disabled veterans. I think I would look at it a little more charitably as long as the Town's interest is protected. That is absolute, I don't want you to think I'm suggesting that you allow the applicants to do anything that puts the Town at risk, and that's why, at the Chairman's suggestion I had the Town Attorney review the document, and he is satisfied that the Town is protected, it's simply not an instrument that is mentioned in your regulations and something

that applicants can submit, and I wouldn't recommend that you do it all the time, but I am recommending that you allow the applicants to post an escrow account for the amount recommended by the Engineering Department.

Commissioner Hall: Who is holding the escrow?

Craig Minor: It would be Webster Bank, the bank that has given them the construction loan.

Commissioner Hall: Why couldn't we have our attorney hold it?

Craig Minor: Well, then it wouldn't be an escrow, well, I don't know the details but I think it's important to the way that the money is being set aside, within Webster Bank that it still be under their control, but subject to a call if the town determines if they are in default, just like a letter of credit would be.

Chairman Pruet: The Town Attorney explained to me that because it's a non-profit status and everything else, we would have access to that account, and Webster, by signing off, the Town, the Bank and the builders.

Commissioner Hall: Well a release, sure, but all parties have to sign that release in order for the escrow to be released, so if one party holds it up, we don't get the money.

Chairman Pruet: That's not what Mr. Boorman was saying. If they default on a portion of what they have committed to, we have access to get that restitution.

Commissioner Anest: (Inaudible)

Commissioner Aieta: It's not real money, that's the problem.

Craig Minor: It's money that Webster has already committed to this project, so in a sense, the bank is, on paper, putting it here instead of here, but it's all still within the bank.

Commissioner Hall: It's a promise.

Chairman Pruet: Yes, it's a promise and we are protected.

Commissioner Aieta: I don't know, some of the people who work in that business, Cathy does, Carol does, Michele's an attorney, I mean, I look to them, is this a secure amount, this isn't normal. Is it secure?

Commissioner Anest: What happens if they need the money? They have whatever dollar amount sitting there in escrow, but it's part of their whole financing package, I'm concerned as to how is it going to be separated and ear marked just for.....

Craig Minor: The amount of the escrow account will come down over time as they do work, they can ask for a release, just like any other performance bond, the developer says, I've done another twenty thousands dollars worth of work, please reduce my bond. So they will do that, which will free up money.

Commissioner Hall: Who is going to establish what is held in this account?

Craig Minor: The dollar amount?

Commissioner Hall: Yes.

Craig Minor: Your Town Engineer is working on that.

Commissioner Hall: So we are driving that portion of it?

Craig Minor: Yes, absolutely.

Chairman Pruet: From what the mayor told me, a million dollars. So it's a very high amount.

Commissioner Hall: But again, to be drawn on.

Craig Minor: And as soon as the Town Manager, and his name is on the document, as soon as he certifies that they are in default, the bank will have to give us whatever funds are there to correct whatever the default item is, landscaping or whatever.

Commissioner Camerota: But it won't be drawn on until we sign off.....

Craig Minor: Yes, I'm sorry, that is one of the phrases in there.....

Commissioner Hall: So as each section is being withdrawn, we sign off on that?

Craig Minor: Yes.

Commissioner Aieta: The Zoning Board?

Craig Minor: Well, the Town Manager.

Commissioner Aieta: Who signs off on it?

Craig Minor: The Town Manager.

Commissioner Aieta: In the past, all bonds were signed off by the Zoning Board, we didn't allow the Town Manager, the Engineer, anybody sign off on bonds. It is the responsibility of this Commission.

Craig Minor: I think we could stipulate that, I don't think that would be a problem, because you meet twice a month, so I don't think that would be a problem.

Commissioner Anest: So it would come before us to reduce it?

Craig Minor: Yes.

Chairman Pruet: Are we all set on this?

Commissioner Hall: As long as the town is protected.

Chairman Pruet: That's the bottom line, that's why I pushed it forward to get that clarification.

**XI. COMMUNICATIONS**

None

**XII. PUBLIC PARTICIPATION** (For items not listed on the Agenda, each speaker limited to two minutes.)

None

**XIII. REMARKS BY COMMISSIONERS**

Commissioner Aieta: I want to go back to what we talked about under one of the items on the Agenda where the Planner said that we had the authority to have a public hearing whenever we felt like it, or a consensus that we could have a public hearing. And somehow it got pushed that we are going to ask the Town Attorney for an opinion. I think that is foolish. You people are the ones that are supposed to interpret your regulations. The regulations are clear as to when the public hearing is required and when it is not. I mean, you people, you can't be pushing stuff, everything to the Town Attorney. You have the final say, it's your regulations, you interpret them. You feel after reading those regulations that you have the ability to just arbitrarily say, we're going to have a public hearing on this particular site plan, I don't think that is the intent of the regulations, or the law. I don't think it is a good idea to send everything when we have a question, to the Town Attorney. You have the regulations, you read them, you can interpret them, you can interpret them yourself. That is the responsibility of this Commission.

Commissioner Anest: We can interpret our regulations, but if there is a statute that, is there a statute that states, or where are you pulling this from?

Craig Minor: Thirty years of doing this. I can come back and give you case law if you want, or we can ask the Town Attorney to, and you would probably prefer to hear it from the Town Attorney.

Commissioner Anest: Well, I'm looking at our regulations, where it is stated.

Chairman Pruet: I agree, we do interpret our own regulations, but because we have two difference of opinions, and they are both strong, I'd like to get the opinion from the Attorney. Does anyone else have any comments?

**XIV. CLOSING REMARKS BY THE CHAIRMAN**

None

**XV. ADJOURNMENT**

Commissioner Camerota moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Norine Addis,  
Recording Secretary