

NEWINGTON TOWN PLAN AND ZONING COMMISSION

May 23, 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 Carol Anest
Commissioner Michelle Camerota
Chairman David Pruet
Commissioner Stanley Sobieski
Commissioner Frank Aieta
Commissioner Michael Camillo

Commissioners Absent

Commissioner Cathleen Hall
Commissioner David Lenares
Commissioner Dana Woods

Staff Present

Craig Minor, Town Planner

Commissioner Camillo was seated for Commissioner Woods and Commissioner Aieta was seated for Commissioner Lenares.

II. PUBLIC HEARINGS

- A. Petition 07-12: Site Plan Approval and Special Exception (Section 3.2.2: Public Utility Installation) for a Pump Station at 70 Eighth Street; Metropolitan District Commission, 50 Murphy Road, Hartford, CT owner and applicant; Steve Hallowell, Wright-Pierce, 169 Main Street, Middletown, CT contact.**

Chairman Pruet: I see the petitioner is here, if you would come forward please and state your name and address for the record, at the podium.

Eric Pizzoferrato, Metropolitan District 555 Main Street, Project Manager for the project: Last time I was here we spoke briefly about our application for a special application for the relocation of an installation of the emergency generator at the Eighth Street pump station. I took questions from the Commission and answered them diligently, if there are any follow-up questions, I'd be more than happy to answer them. Also, at the request of the Chairman we sent out two notices to the two abutting neighbors of the pump station to see if they would like to contribute to the success of the project.

Chairman Pruet: Any response from the neighbors?

Eric Pizzoferrato: I did not receive a response officially, however our consultant did receive a call from one of the neighbors and answered her questions accordingly.

Chairman Pruet: Okay, questions from our staff?

Craig Minor: Well, there was an abutting property owner who has some questions and she is here tonight, but she also gave me a letter this morning, some of her questions, and let me pass around copies of her letter, and I'll read it into the record. This is from Janice R. O'Hara, she is the owner of the house at 64-66 Eighth Street. "Re: Pump station – generator installation Petition 07-12. My concerns, number one, noise, will the generator be loud – disturbing the people living in the area? Number two, traffic, which she didn't give any details on that, Number three, lighting. The area is dark, many children hang out in the area, children climb the fence and go into this area. Children cross through my yard to get to the area. I believe there is access to the area from the other side of the tracks. I do not know if the area is completely and sufficiently fenced. Number four, fencing – need proper size fence for safety reasons. Number five, safety, is the generator run by electricity or gas. How much gas will be in the area? How will it be kept safe?" And then she closed with another question, can they move another thirty feet away from my property? I did discuss the last one with her, she wasn't aware of where the property boundaries were when she made that comment. She was under the impression that your lot was bigger than it is, someone had told her that the new location is seventy five feet from the house next door. She thought that meant that you had seventy-five feet of side yard, but I explained to her, no, the most you could move it was another foot or so at the most and she understands that you can't move it any further away from her home.

Eric Pizzoferrato: Well, if I may, I'll take the first question, noise. As I spoke at the last meeting, the emergency generator is listed as a thirty-five kilowatt generator. The generator dissipates the noise level at 65 DB at twenty-three feet. At that distance, you can have a normal audible conversation with a person next to you. I would also like to note for the record that the generator is designed to run in the event that there is no CL&P supplied power on that site, so the generator does not run all of the time there. It only runs when there is no CL&P supplied line power to this site. We do test run the generator once a week during normal business hours at a selected time. The District will be happy to work with the neighbor to pick a time between the hours of nine to five where we can run it for twenty minutes just to test the functionality of the generator, so hopefully that will address the noise condition.

The traffic, the generator is in our pump station property. It should not impede any traffic or any sight lines or anything like that.

Lighting, the new enclosure that will be installed there will have an exterior light to it, and our current specification is having it switched on and off only when it is visited by the operations or maintenance personnel. We can work with the neighbor to put a photo cell on it to illuminate that general area during the night if they so desire. In other applications that we submit to other towns, working with other residents, some people don't like to have a light that comes on all of the time, obviously it may affect their sleep pattern or it's close to a bedroom window or something like that, so we will be happy to work with the neighbor at the Eighth Street pump station to accommodate that.

Fencing, the facility will be fenced in, the generator and the enclosure so we'll have fencing there, and safety, the generator is run by diesel fuel, it has a tank underneath the generator. The fuel is monitored by our command center twenty-four hours a day, 365 days a year. We have a low fuel sensor on there, we also have leak detection equipment on it, and the fuel tank is double walled UL listed. Hopefully I have addressed all the comments and questions of Janice.

Chairman Pruet: How high is that fence again?

Eric Pizzoferrato: The height of the fence I believe would be eight feet.

Chairman Pruet: And what is it, chain link?

Eric Pizzoferrato: It's either a black or green chain link fence to match the pump station, our standard is green. We only have black for certain instances.

Chairman Pruet: Staff, anything else?

Craig Minor: No. Nothing else.

Chairman Pruet: Okay, Commissioner comments?

Commissioner Sobieski: I think last meeting I had asked if you were going to do some kind of plantings around it, something to abate the noise a little bit more. Have you given that any more thought?

Eric Pizzoferrato: We do have the specified arborvitae to surround the generator, all four sides.

Commissioner Sobieski: And this neighbor had mentioned something about the kids, this fence will be a non-climbable fence I'm assuming?

Eric Pizzoferrato: A non-climbable fence?

Commissioner Sobieski: Well, what I'm referring to is something on the top where kids won't be able to throw things over and turn off the generator.

Eric Pizzoferrato: Well, there is a barbed wire option, that is something we can work out....

Commissioner Sobieski: Well, I was just asking the question, I don't know, just asking. This neighbor said that there are kids that are in that area, is there some decorative thing that you could do to keep them from.....

Eric Pizzoferrato: We could put slats around the chain link fence to prevent climbing, however, I think that's the best we could do.

Craig Minor: Well, I don't think she's concerned about kids getting into the compound, she's more concerned with kids getting onto your property, the site itself. I know that there is a gate in front of it, but she said kids climb the gate or kids cut through her yard to be able to get down in the back. That was more what she was concerned about.

Eric Pizzoferrato: In doing the site plan, the pumping facility is surrounded by a gate and also there are two chain link fences that run perpendicular down both sides of the property but they end about half way down. You also have to keep in mind that we have train tracks there and there is also a CL&P main line that goes through there and we share that easement so we would also have to talk with CL&P for the fencing issue there, so I believe that is the best we can do for fencing there. We put as much fence as we can around there to prohibit anyone from going on the property there, that is the best we can do.

Chairman Pruet: Further questions from the Commission? This is a public hearing, anybody from the public wishing to speak in favor of this motion? Anyone wish to address the Commission who is not in favor of the motion?

Janice O'Hara, 64-66 Eighth Street: I was here earlier today trying to put all of this together because actually I just got the notice so I'm kind of behind the gun on all of this stuff. I actually have one more question and that would be, I own the property right next door to the site, and I just would really like a diagram on how close to my house this is going to be.

Eric Pizzoferrato: We have a site plan here for review.

Craig Minor: The site plan doesn't show her house though.

Chairman Pruet: Would this show it here?

Craig Minor: No, it doesn't. Her house is outside those limits of what is shown.

Eric Pizzoferrato: We also have an aerial photograph. This is your house? This is our right of way, this is the pump station, this is you right here. The original application had the station going here, the modification has it going here. Would you like this?

Janice O'Hara: That's all. Thank you.

Chairman Pruet: Anyone else wishing to speak on this motion, for or against? Seeing no further participation, the pleasure of the Commission is to close this and move it to Old Business for our next meeting? Okay, that's what we are going to do, we will close this and move it to Old Business for our next meeting.

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

None.

IV. **MINUTES**

A. May 9, 2012

Commissioner Sobieski moved to accept the minutes of the May 9, 2012 Regular Meeting. The motion was seconded by Commissioner Camerota. The vote was unanimously in favor of the motion, with six voting YES.

TOWN PLANNER REPORTS

A. Staff Comments on Pending Petitions

Craig Minor: The only comments I had tonight were on the public hearing and you covered all those issues. This is just to pass out. I drafted a slight amendment to the auto use amendment to make it clearer that, which uses will be allowed in the zone, because of the concern that Commissioner Anest had last time. So, let me pass these out, I added the phrase "in certain zones only" in the first paragraph under Section 6.1.1 so now it will read, The Commission may grant a Special Exception for the sale, rental, service or storage of motor vehicles in certain zones only, subject to the following conditions....

Chairman Pruet: That's good.

Commissioner Anest: I know in the article in the paper.....

Craig Minor: Yeah, I know, he got it wrong.....

Commissioner Anest: So you know about it, because some people did call because they thought we changed what we decided. Just wanted to make sure.

Craig Minor: Okay, new reporter.

Chairman Pruet: Also, the Town Planner is reviewing all of the information on the busway and we are going to be addressing that in the future for our meetings planned with CCROG and the State and we will be moving along on that with further discussions so we are going to be taking that on and see what the best plan for Newington is.

At this time, we are very fortunate to have our Zoning Officer, Mr. Hanke, if you would step forward, we have a nice chair for you, I believe the microphone is on, and if you could maybe just paraphrase your zoning report, you don't have to give it verbatim, and then be available for any questions that the Commission may want to ask you, and thank you for coming tonight.

Art Hanke: Well, as the Commissioners are aware, the zoning report is on line and each one of them has a copy of it. Most of it is fairly routine but I do believe that there are probably some specific questions that the Commissioners wanted to ask, and that is what I am prepared to do tonight, answer whatever specifics you need on whatever you are concerned about.

Chairman Pruet: What is the longest problematic discrepancy that you have existing and how long does it usually take to get that resolved? Is there any like, long term ones that we should be aware.....

Art Hanke: There is one of them that we have been working on for probably two and a half years, and that has to do with 174 Francis Avenue. It's a long range thing. Peter Boorman and I are engaged in a legal action on it now, we're engaged in a number of other activities to try to in some way, bring it to closure. There is some light at the end of the tunnel. Peter had called me and told me that he will be filing a suit, probably within a month.

Chairman Pruet: Okay, good. Thank you. I'll open it up for Commissioners?

Commissioner Sobieski: Art, I think this report, the thirty some odd sites that you visited, fantastic report, I do know you are busy. All I would like to say is keep up the good work, I didn't realize that there were this many violations that come to that office every month. It's a very comprehensive report and I'm very pleased with it.

Art Hanke: Thank you.

Commissioner Aieta: I brought up, and I think that you answered part of it, the Pane Road property where the automotive use is on the first property. I see they have cut back on the number of cars. Part of the approval was that they were not to use that side entrance and they are using it, and their employees are also parking on the adjacent property. Either they have to get approval from them or not park there.

Art Hanke: I'm aware of the condition that you are talking about, and I monitored it from time to time, and as you noted, they have cut back. Now the cars, employee parking, on the gravel area, I checked it today, they weren't parking there. What happens is, obviously, it's a moving target and the autos, being mobile, you know, one time you check it you might find three or four, another time, you could find five, and they have received violation notices, failure to meet site plan requirements, and I will stay on this situation until it is really resolved, but again, it's, it goes in and out of compliance, there's no argument there.

Commissioner Aieta: The only other thing, the property on Church Street that has the dumpster in the front yard, it's been there for some time, you know which piece I'm talking about. The gentleman's running a construction company out of there, or something.

Art Hanke: Again I know the site that you are talking about, and that site I think will be resolved within the near future because I have given him a final warning on that particular thing. He has persisted, in fact, he has persisted in the fact that he's cleaning out his basement, cleaning out the back, but I checked the dumpster once when I was there with him, and I believe you are correct, that he is using it as a transfer for his business or something like that, but it was supposed to be resolved in the spring, and now it's dragged out, I'm glad that you brought it to light, because I want to get back on that again and pressure him a little bit more.

Commissioner Anest: Art, do you drive around the town for violations or do you just take reports that come into you?

Art Hanke: Both, the answer to that is both. What I do is, I deal with specific complaints but when I go down the street, obviously if I see other conditions then I pick up on that. Now on the turnpike, that is a management issue out there because if I go out there, I try to get out there at least two or three times a week, because if I don't stay on the signs, and some of the other issues, they slip away. I do both, but, in other words, if I'm going down the street and someone is complaining about one thing, I don't ignore something that I see, I hit that at the same time.

Commissioner Anest: Because like in the center there's a lot of violations like sign violations that I never see on the report, so I don't know if you just go in and address it and take care of it.

Art Hanke: Well, there were some concerns, a couple of things, one of them was 1076 Main Street, I was there, there was another concern at 130 Market Square, I was there, there was another concern at 134 Market Square, I was there, so it, see, it's not a precise science. In other words, if most of the complaints are over in the other side of town, well, I'm working that side, and then if I go through town and, or if I go uptown with the Town Engineer, I'll hit those. Like today, a good example, I came back that way at 1092 and 1099 Main Street there was a A-frame sign out there, Dunkin Donuts. The notice is written, it's on Cindy's desk. So, I just happened to come back that way.

Chairman Pruet: Any other questions for Art?

Commissioner Aieta: One other thing I forgot to mention, is there any way, people are skirting the sign regulations by putting them on vehicles and on the Berlin Turnpike we have a tank and we have a jeep with a rocket ship on it. Some other people have businesses where they have advertisements on their vans, and they park the vans in such a way that they become a sign. Is that some way that they can legally skirt the regulations of the sign regulations or we're not covering that in the regulations, or...

Art Hanke: The answer to that is that discussion was maybe five years ago, the discussion was conducted between Ed Meehan and Peter Boorman at the time. They discussed the fact of what you are talking about, signs on vans, say, XYZ Plumbing or whatever, and the upshot of it was at the time Boorman said basically that this is legal. You can do this. If you have a business and you have let's say, XYZ Plumbing, you have your plumbing office there, on the premise, and you park your van there that says, Plumbing and Heating, then it's not a violation, and there was a caveat though. The caveat was the fact that it couldn't be one of the magnetic things where you could pull it off and on, so it had to be either lettered, or in some way, permanently affixed. That was the interpretation at the time because it did come up, it came up in a number of instances. So I don't think, at this time, given the regulations they way they are written, you could deal with that unless you really wanted to have specifics in the regulations to deal with that specific instance.

Chairman Pruet: Any other questions for Art while we have him here?

Commissioner Aieta: Just one more thing, does that cover like the tank that is out there that are basically signs.

Commissioner Carillo: It's registered.

Art Hanke: That's the key to it, just as Mike is saying, that there was a rocket launcher that was registered in Massachusetts and, because I did get into that, and the guy did call me with the registration, so it was registered. The tank, the trailer it's on is registered.

Commissioner Aieta: People have asked me about it, so I can tell them they are not in violation.

Art Hanke: Right, if the trailer is registered, then they are not in violation, and that was the explanation at the time.

Chairman Pruet: Anybody else? It was very informative Art that you came, resolved a few issues, cleared a few things and I appreciate your efforts and thank you for coming tonight.

V. NEW BUSINESS

None

VI. OLD BUSINESS

None

VII. PETITIONS FOR SCHEDULING (TPZ May 23, 2012 and June 13, 2012)

None

VIII. PUBLIC PARTICIPATION

(For items not listed on the agenda)

Rose Lyons, 46 Elton Drive: This meeting is too short so I had to lengthen it somehow. Just last night at the Town Council meeting the discussion was brought up about the busway and about the meetings with the Town Council. I'm hoping that the public is going to be smart

enough to come out and look into it, talk about it at this table, or at least listen on NPTV about it because I believe that the busway is a very big issue for this town. I have a few questions and I've gotten a couple of different answers from people and I hope that we can bring it around the table and have an open dialogue with the public and with the Commission and not just around the table with volunteers and elected officials. I'm hoping that there will be some kind of question and answer period for the residents. Thank you.

IX. COMMUNICATIONS

None

X. REMARKS BY COMMISSIONERS

Commissioner Anest: I have a question, and maybe Craig can find the answer. I have a question, if, within the busway, does the State have a right to override our zoning?

Craig Minor: No, no, absolutely not. They have no jurisdictions zoning wise. Connecticut is a home rule state which is a very powerful condition, and no, no, the short answer is no, the State cannot mandate any zoning.....

Commissioner Anest: So if they own a piece of property, and they want to do something and it's not in our regulations, and they come before us and we deny it, they can't override us.

Craig Minor: Well, state owned property, I didn't realize that you were talking state owned property. State owned property, well, just like your town is exempt from zoning, it's possible that the state is exempt from zoning.

Commissioner Anest: Can we, can somebody

Craig Minor: Yes, I will get an answer to that question.

Commissioner Anest: I'm getting conflicting.....

Craig Minor: Well, I was asked at a Chamber meeting the other day if the state can mandate say, affordable housing and I said no, of course not, but what the person really meant was if the state wanted to put affordable housing on land that the state owned, would they be subject to our zoning regulations, and that's a slightly different question, which I'm not in a position to answer, so I will find out.

Commissioner Anest: Thank you.

Commissioner Aieta: Along the same lines, on the busway, have you looked at, where it is going through the Town of Newington, the parcels that are vacant along the busway, and the ownership of those parcels? I know that I got questioned by some of the Council people, what it was zoned, and who owns it and can they put housing on it. I mean, it would be interesting to know who owns the parcels that are adjacent to the busway, what the zones are for those vacant parcels, and just see what could possibly be. I know that a lot of it goes from Day Street, that's all Industrial zone, and what the underlying zones are for those vacant pieces, who owns it and what the zoning is, I think there are Councilors that are interested in finding that out, what our exposure is to this because it is obvious that the, there's a push to increase the rider ship by building the rider ship by having housing along the busway. It's obvious by the conversations that people are having.

Chairman Pruet: Anybody else?

XI. CLOSING REMARKS BY CHAIRMAN

Chairman Pruet: Again, my remarks too is that we are going to be engaged in the discussion about the busway and there is going to be a lot of meetings with CCROG, with state agencies, with our fellow surrounding towns, and we're going to come up with a plan that is best for Newington, so we have our homework ahead of us, and I look forward to doing that.

XII. ADJOURNMENT

Commissioner Aieta moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 7:35 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary