NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

May 25, 2016

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

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND SEATING OF ALTERNATES

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

Commissioners Absent
Commissioner Brian Andrzejewski

Staff Present
Craig Minor, Town Planner

Commissioner Camillo was seated for Commissioner Andrzejewski.

III. APPROVAL OF AGENDA

Craig Minor: Mr. Chairman, I recommend deleting the approval of the regular minutes of May 11th.

Chairman Aieta: Any questions, comments? All in favor of eliminating that? The vote was unanimously in favor of the motion, with six voting YEA

IV. PUBLIC PARTICIPATION

None.

V. REMARKS BY COMMISSIONERS

Commissioner Serra: A couple of things. On the graduation signs that we have been talking about for a while, again, I love the school spirit, but on East Robbins, as you are heading into Newington, there is a sign on the right hand sign, tied between a telephone pole and a traffic sign. There is also one on Kelsey Street, somebody put a stake in their yard, and it is tied to a telephone pole. There are also signs on the bridge on Willard and West Hill. I thought we said there were going to be no signs there, that we were going to notify someone. We need to remind our residents to use the fences around the parks, don't use the traffic signs, street poles, or the bridges.

Chairman Aieta: I took a ride by the Willard Avenue Bridge next to CTfastrak and there are signs on the bridge. I'm going to ask the Planner to call the Highway Department and have them removed. If people are looking for them, they will be at the Highway Department. Those could be a real traffic hazard. The bridge is a windy area, they could blow off, they could blow onto a car windshield as they are driving. We have allowed them to be put on the fence at Clem Lemire. They are supposed to go by time limits and everything, but this area is just too unsafe to have those signs. I agree with the Commissioner's remarks.

Commissioner Serra: There is also one other sign at Clem Lemire, an advertisement for football and cheerleading. It's a large sign. Again, I'm all for school sports, but it is just something that we need to be aware of also. I think we just have to pick and choose where those go.

Chairman Aieta: Mr. Planner, do you have any…

Craig Minor: I'll pass that information along to the Parks and Rec Director and the Superintendent of Schools.

Commissioner Bottalico: I'm pretty sure the Town charges the midget football program for those signs inside the park. I don't know what you could do there, but midget football is not the only one that puts up the sign.

Commissioner Serra: Again, I'm all for sports, I'm not trying to say we shouldn't have it. I know at one time there used to be areas around town where people could advertise events, and I guess they were either taken down or not kept up. Maybe we need to look into giving people areas where they could post this stuff.

Craig Minor: The ZEO and I talked about that a while ago. The Parks and Rec Department used to maintain two signs, one near Clem Lemire and one in the town center…

Commissioner Bottalico: At CVS.

Craig Minor: Yes, the one at CVS, but the one at Clem Lemire became decrepit and fell down, and Parks and Rec has not replaced it. We contacted them about that, and the answer was, well, we haven't had any demand for it. So that is why they never replaced it. They didn't see any demand for it probably because people just put up signs anywhere, whereas if we had that facility maybe people would be inclined to use it. If you like, I can ask the Parks and Rec Department to reconsider their position of not replacing that community bulletin board sign.

Commissioner Serra: I think it is worth the effort.

Chairman Aieta: You will talk to the highway department about the removal of those signs?

Craig Minor: Yes.

VI. PUBLIC HEARING

A. Petition 07-16: Zoning Text Amendment (Section 3.15; 3.17; 6.11: Auto-related Uses) Modern Tire Recapping Company Inc., applicant; Attorney Timothy J. Hollister, One Constitution Plaza, Hartford, CT, contact. Continued from April 27, 2016.

Commissioner Pane: Mr. Chairman, I'm going to recuse myself as I did at the last meeting.

Chairman Aieta: To fill Commissioner Pane's seat, I will sit Commissioner Giangrave for Commissioner Pane for this application. Will the applicant please come forward? This is a continuation of the last meeting, on April 27th, and this is a continuation of that hearing.

Attorney Hollister: Good evening Mr. Chairman, Commissioners. Tim Hollister, representing the applicant, Modern Tire. As was mentioned this is a continuation from April 27th, so let me just give you the briefest of recaps. When we were here on April 27th, we went over the fact that the Commission in 2007 enacted a ban on auto-related uses on the Berlin Turnpike and then in 2012 adopted some amendments that, whether intended or not, ended up resulting in one property in town getting a special exception for motor vehicle service use. There were court cases that arose from those amendments, and the good news is that we are here trying to resolve the long-standing issue of what is the proper balance between auto-related uses on the Berlin Turnpike, the B-BT and the PD zone versus the Industrial zone. We have worked with the staff on the original proposal, Mr. Minor had some suggestions and improvements and you have before you the proposed second draft. Mr. Amenta made some additional comments when we were here on the 27th of April. So we really have only two points to close out our presentation tonight. The first is that, again, working with your staff, we agreed to two minor changes. The first is improvements or clarifications to 6.11.3, not changing the meaning but just clarifying the context for that section. You may recall Attorney Souchens made two proposals to amend Section 6.11.7. She represents the owner of the Firestone property. To clarify that restrictions on overhead doors would apply only to those that face a residential structure or zone, so we looked at that, and we accept that as an amendment, and the first tab of what I am going to give you tonight is Mr. Minor's compilation of those changes which are acceptable to us. So basically what you have before you now is a proposed final version that, A. resolves the long standing issues about automotive uses as drafted cooperatively by the applicant and the staff and the regulations essentially a compromise of various issues raised over the years, and so have proposed that for approval. That said, I do have to strike the same note that I did the last time, which is that we oppose the other amendment that was proposed by the owners of the Firestone property, which is to remove the words "validly approved" from 6.11.1 and 6.11.7. Let me be clear about the reasons for that.

At the April 27th hearing we explained that, and I will repeat that now, that removing those words would essentially prevent the Commission from taking enforcement action against any existing zoning violation on any automotive use in the PD or B-BT zone, whether it is wrong or not, and that is about sixty or so uses within the town. So that simply would not be good policy but in addition, Mr. Amenta and I got kind of curious as to why Firestone and Guggenheim Real Estate as its owner were so adamant about striking the words, validly approved.

I understand that this is not the forum to bring up zoning enforcement issues, but we did discover, and this is under Tab 2, that in 2013 they applied for a motor vehicle, Firestone applied for a motor vehicle service use which was a limited repairer license from the State, and on August, 2015 they took out a general repairer license from the State and then in December of 2015 they renewed it, so again, understanding that this is something that we will take up separately with the Zoning Enforcement Officer, but they have been operating since August of 2015 when they opened in violation of, express violation of the permit that they got in 2013. So if you take out the words validly approved, they are going to argue that that violation cannot be corrected, so for those reasons we would like the word validly approved to stay in. There is also another violation if you look at the photo under Tab 3, I think when we were here on the 27th of April there was mention of directional signs that are put up by property owners without property authority from the DOT or the Police Department and it looks like Firestone has put up two of those types of signs, so that is just another example, so, the good news is that I think we have a consensus regulation to clear up the issues, but we do request the words, validly approved, stay in, and let me just take that one step further, I sent Mr. Minor an e-mail today, if the Commission were to take out the words valid approved, or the word validly, we would ask then that the application be considered

withdrawn by Modern Tire, as the applicant because we came here to try to fix a town wide problem, and not to come up with a solution that would allow someone to get away with zoning violations. It's sad that our proposal has kind of been hijacked for that purpose, but that is what I wanted to put on the record, so I apologize for taking so much of your time Mr. Chairman.

Chairman Aieta: Any questions from the Commissioners for the applicant?

Commissioner Camillo: When you go to Motor Vehicles to apply for a repairer's license, the limited repair is from the zoning department with restriction. When you fill the application out, it says restrictions, but it is a general repairer's license with restrictions. Does their license say that?

Attorney Hollister: The DMV or the DOT would not give us a copy of that license. They are listed under the general ledger of the state wide licenses and listed as general repair but the point is, they didn't get the kind of license……

Commissioner Camillo: They don't have a limited repair, it's a general repair with restrictions that makes it a limited license and it's by the zoning department approving that. They sign a paper that says with restrictions and what they are.

Attorney Hollister: I believe there are limited repairer's licenses.

Commissioner Camillo: It's a general repair with the restrictions, so they are valid. They have the approval from zoning that shows the restrictions on them, so that is how it was approved. I just went through this in another town.

Chairman Aieta: Any other Commissioner remarks at this time? Any comments, questions? I'll turn it over to the public. People who wish to speak in favor of this application, please come forward, state you name for the record. This is in favor of the application.

Attorney Souchens: Good evening Mr. Chairman, member of the Commission, my name is Amy Souchens, as you are aware, we represent the Guggenheim Retain and (inaudible) LLC, which is the property owner under the Firestone lease. I have a letter that I would like to hand out, but I would just like to touch on a couple of things Attorney Hollister said, and I find it surprising that he used the word "sad" that this application was hijacked. I think it is anything but. This has been a very clear attempt on their part to make sure that the language was included for purposes of litigation that concerns my client and your time. Your time has been spent in the last years in litigation and the only reason that this language, for validly approved needs to be included has nothing to do with the limited or general repair license or a sign that can easily be taken down. It has everything to do with the litigation and being able to continue that. I think the Commission needs to be very clear and understanding that we still have not heard any reasonable response from Attorney Hollister or Mr. Amenta as to why "validly" needs to be included. None! If "approved" is included, it addresses all of the comments that I understand that Mr. Minor has about the application. He is concerned about, or even Attorney Hollister, with respect to the, any uses or operation that may be occurring that never came before this Commission or before the ZBA. There is no other reason, none. I think it's important for the Commission to remember that, that it has been not only your time, staff time, and a tremendous amount of financial resources from the town for the last three years, in three different pieces of litigation.
Mr. Amenta's testimony, both in court and in deposition was that his goal in brining all this litigation was to make his property conforming. So the fact that he is now going to tell you that if you include, excuse me, if you exclude validly, he is going to withdraw this application? That doesn't even make sense. It doesn't make any sense. It is exactly what he stated, so

was he lying in court? I don't know. I don't know what the issue would be except for being able to continue the litigation against my client.
Otherwise, everything is outlined in the letter, I will pass down the copies to Mr. Minor, the original is on top, and to the Commission members. Clearly, the things that are noted in the materials submitted by (inaudible), Attorney Hollister spoke of the enforcement issues which have nothing to do with this application. Does anyone have any questions?

Chairman Aieta: Thank you. Thank you very much.

Attorney Souchens: Thank you.

Chairman Aieta: Anyone else wishing to speak in favor of the application, please come forward, state your name and address for the record.

Robert Amenta: I'm the owner of Modern Tire on the Berlin Turnpike. I think it is very important that we have complete clarity and transparency in regards to this regulation. What has led us to where we are today is that there was a lot of latitude that was a lot of gray areas that were misinterpreted, and what we are trying to get passed today is a clear, transparent regulation that everybody can understand, that there can be no misinterpretation. The words validly approved are very important and I will explain, for a couple of reasons. Back in August 2012, the regulations that went in specifically stated, limited repair. Limited repair was the only valid license that could be used in that zone. It didn't state, there are several different licenses that motor vehicle has, there is a dealers' license, there is a used dealer license, there is a repairer license. The repairer license just says repairer and really what it is, it is a general repairer. And then there is a limited repairer license. A limited repairer license is the license that was selected as the one that would be allowed in August, 2012. That limited repairer license is very restrictive in regards to uses and the activities that they do. If you go to the listing, I'm assuming that maybe you have the listing of the motor vehicle licenses. What motor vehicle does, is they update a listing every week. They update a listing every single week, and it shows by town every single automotive operator that is licensed in the town and what license they are operating under. Dealer's license, a used car dealer's license, a repairer or a limited license.
Something that is very ironic is that if you look, so that you can see how important it is that you do this correctly, if you were to do a search, if you looked at all the Bridgestone facilities in the State of Connecticut, licensed by the State of Connecticut, and there are several, fifteen, twenty, whatever, something like that, there is one that has a limited repairs license right now. That is in the Town of Glastonbury. That particular Firestone, on this list is listed as a limited repairer license. I find it very odd that the Firestone in Newington under the regulations that stipulated that should be a limited repairer's license, actually came out with a general repair license. So, right from the onset, that was a problem. Now that's a whole aside, but the thing that we're trying to establish is clarity in this regulation. That anybody that comes in must be validly approved and comply by the regulations. Had the limited repairer not be listed in August 2012 regulations, and it just said repairer, we wouldn't even be here right now, because my facility that operates under a general repairers license that we have owned since 1968 and has always operated under a general repair license because of the type of activity that we do, and I know that we do not fall probably under limited repairer license which actually if you read the regulations, a limited repairers license by the motor vehicle refers to everything as a person. On a dealer license it refers to an entity, a company, on a used car dealer license it tends to be a company, on a repairer license, an entity, a company, on a limited repairer license it refers to a person, an individual, someone that has the proper credentials. That is a whole different thing that should be taken up by the State and maybe rewritten, but in my eyes it is a way to put something in, on a particular parcel or whatever, that disregards the rest of us repairers. There are general repairers, used car dealers, there are no new dealers here, but that stifles our ability to become conforming. So what we want now is to be conforming with complete transparency. Anybody

that reads it, someone who comes here from another town and reads it, would understand that we are a repairer and if they went to the general statutes for Connecticut, they would see a repairer is a valid use, a limited repairer is not. That, oddly enough, is what the regulations that stipulated in 2012, that Firestone should have been operating under today to be quote unquote, validly approved, right now, because they are operating under general repairs. So, validly approved is very important.
Here is the other reason it's very important. In each of those sections, in the dealer section, the dealer license, the used car dealer license, the repairer license, all of those, if you read the statute, that statute is Connecticut General Statutes 14-51, and subsection A and then paragraph one is new car dealer. Paragraph two is used car dealer; paragraph three is repairer, paragraph four is limited repairer. In the first three paragraphs new car dealer, used car dealer, repairer, they all have a reference to Section 14-52A. Section 14-52A speaks to the licensing of the facilities, so each of those categories, new car dealer, used car dealer, repairer, are referenced to 14-52A, meaning that each of those types of operations need to be licensed so in the regulations that we are proposing today, we're referring to validly approved and we are defining it in these regulations as anything that falls under 14-51 and then it specifically excludes 14-51A2, which is the used car dealer. But if you look at 14-51 that means that, there is four in there too. 14-51A4, which is the limited repairer, that still falls under what we are stating in these regulations. But, 14-51A4 because there is no reference to 14-52, which is the licensing, we technically could see someone working out of a storage container, or a storage facility, repairing cars, one car at a time. He sold himself out to be fixing cars, you do it commercially, but guess what, he doesn't have a license. So, unless we go by validly approved, and validly approved will not only fall under the motor vehicle regulation if you will, it would fall under this condition, validly approving. So if we strike the words validly approved, then someone operating as I just explained out of the storage shed or whatever, operating vehicles, that particular person would not be validly approved because you folks, this Commission would not have validly approved him because they need to go, not only do they need the license, they need to come to this Commission and get approved. So when you remove validly approved, you guys are opening yourself up to so many problems that you wouldn't even know about. There are so many unknown, unpredictable things that could happen, and I don't understand what the owners of the Firestone property would be so concerned about using the word validly. I mean, if it's valid, it's valid. So, with that I feel that validly approved is very important here to protect the Town, to make sure that it will achieve what you guys are trying to accomplish, and what you want to have in town, and to clarify and to make sure that it is transparent completely because we've gone a long way in this process, and if it had just said repairer back in August 2012 instead of limited repair, choice of words very important. That is what led us to be here today. So complete clarity will solve all of the issues, it will get us, a lot of my counterparts to be conforming. We have operated in the town for years and years, and we should be conforming. Everybody should be on a level playing field. You know, when Town Fair came across the street from us, I didn't come here; when Walmart came across the street with the tire express, I didn't come here, when Speedy came across the street, that turned into Monroe, I didn't come here. When Firestone came in here the first time, to get it passed, I didn't come here. But then when the regulations got changed and it said limited repairer, I came here, because I'm a general repairer. I know what I do, and guess what, all of Firestone is general repairs except for Glastonbury which is limited repair, and over here is a limited repair, so validly approved is very important. Thank you, and I hope that the regulations pass as presented.

Chairman Aieta: Anyone else wishing to speak in favor of this application, come forward, state our name and address for the record.

Lori Dubowsky, 2107 Main Street, Newington: I live across from Firestone, I can see them from my picture window, and have observed Firestone from the beginning, and me, as someone who lives in Newington all my life, I do have a problem if this is not valid, because that is not fair to me, I listen to the noise, I listen to the trucks, and today, because it was very

warm out, it was especially noisy because I'm sure all of the doors were open. I don't drive up there to look and see, but I had company today at eleven o'clock, and they said, what is that noise, and I said, oh, that's Firestone. I do have a problem with the details. Thank you very much.

Chairman Aieta: Anyone else wish to speak in favor? Seeing none, anyone wishing to speak in opposition to this regulation. Come forward, state your name and address for the record. Seeing none, I will open it up to the Commission for comments or questions. What is your pleasure, do you want to close this application, keep it open, move it to the next meeting for action.

Attorney Hollister: I want to respond to Attorney Souchens, please don't think that this is between Modern Tire and Guggenheim. The regulation before you affects sixty businesses in the PD and the B-BT zone. That is what is in front of you, so we are not talking about validating one, we are talking about potential zoning violations in about sixty businesses and that is why the words, validly approved need to stay in there not because Guggenheim or Firestone but because there are sixty other businesses involved.

Attorney Souchens: I think the point is, even if it affects all of the businesses, you don't have to include validly. Validly doesn't exist any where else in the regulations, you can say, any use approved by this Commission or the ZBA, because there was a period when the ZBA approved, that would satisfy. The concern is somebody operating illegally that has never been before this Commission, that will have been spoken to.

Chairman Aieta: Thank you. Back to the Commission, any remarks and how would you like to handle this.

Commissioner Sobieski: I'm still a little confused between general repair and limited, maybe I just missed the point here but, if you apply as a limited repair and then change and go to general repair, this Commission knows that it is a general repair with a limitation on it, is that how this works. So, in other words, if I was to apply and I get a general repairers license, and then (inaudible) would be applied to it?

Commissioner Camillo: It's on the application.

Commissioner Sobieski: It's on the application, the State form.

Commissioner Camillo: I just looked it up again it indicates limitations and what their limitations are.

Commissioner Sobieski: I understand that. Thank you.

Chairman Aieta: What would be the purpose of someone wanting a limited repairer's license, not a general repairer's license?

Commissioner Miner: It goes way back to when you had full service gas stations that didn't have the operations of full service garages and changing light bulbs and windshield wipers, limited, very limited in their repairs.

Commissioner Camillo: Or your muffler shop, and that is all that they did. Mufflers and tires. Now that has changed because the (inaudible) has changed.

Chairman Aieta: Any other Commissioner remarks?

Robert Amenta: If it would help the Commission, I have the statutes right here. It won't take long, I can read both paragraphs for general and limited repair.

Commissioner Camillo: Do you have a copy of the application?

Robert Amenta: I don't have a copy of the application, but I do have the actual statutes from DMV.

Commissioner Camillo: We are talking about the application, what you get from Zoning when it is approved, and then you go to (inaudible) with the form, they give it to you, you will it out, and give it to the Zoning Official. When he signs it, he goes over what was approved, and there are restrictions. It says, limited, or you can't sell this, you can't do that. You can fill in the blanks, but it does say, restrictions, it is still a general repairers license. I just looked it up on my phone.

Robert Amenta: To my recollection the form itself would have a box that you can check based on what license you are going to apply for. In the statutes there are four different licenses, there is a new car dealer, there is a used car dealer, there is a repairer and there is a limited repair. Under repair it says, repair includes any person, firm, or corporation qualified to conduct such business in accordance with the requirements of Section 14-52A, which is that licensing that I referred to. Having a suitable facility and having adequate equipment engaged in repairing, overhauling, adjusting, assembling and disassembling any motor vehicle but shall exclude persons engaged in making repairs to tires, upholstery, glazing, general glass making, welding, and machine work on motor vehicle parts when parts involving such work as dissembled or reassembled by a licensed repairer. Then, under limited repair which is 14-51A4, in quotations it says, limited repairer, just like in quotations under 14-51A3, it says, repairer in quotation marks. That's it, just repairer. So under 4, it says limited repair in quotations and limited repair includes any qualified person having a suitable place of business and adequate equipment engaged in the business of minor repairs, including repairs in replacing electrical, cooling and exhaust systems, brake adjustments, relining and repairs, wheel alignment, balancing, repairing shock absorbers. For the purpose of this section, a place of business of a limited repair shall be deemed to be suitable if the building in which the repair is performed is space capable of receiving at least one motor vehicle at one time, exclusive of a grease pit or rack and has adequate space for an office and for the storage of parts and accessories. A person shall be deemed capable of performing the duties of a limited repairer if he is, in the opinion of a Commissioner, a qualified mechanic who has a thorough knowledge of the services to be rendered or has a certificate of completion of a specialized course from a service school approved by the Commissioner, or satisfactory proof of previous employment by a licensed repairer for a period of three years or has successfully passed an examination given by the Department of Motor Vehicles. So, I think it is very important that these are really read through, for a thorough understanding, because when limited repairer was put in, in August 2012, it specifically was referring to this section, 14-51A4, and repairer is 14-51A3. To my recollection, I would have to take a look at the action, take a look at the actual form that they fill out when you go to get a license, but you check a box basically, repairer, or limited repair. Town Fair, by the way is a limited repairer. Town Fair just does tires and alignments. They do not to oil changes, they do not do any other repairs, tires and alignments. They have a limited repairer license, that's what they have.

Chairman Aieta: Thank you. Mr. Amenta, would you make that available to the Planner, the paper work that you have?

Commissioner Miner: You might want to check for any amendments to that statute.

Chairman Aieta: I'm going to recommend that we keep this hearing open for another meeting, and we are going to get to the bottom and have an understanding of how these licenses work, and how it pertains to this regulation. There are too many questions here. I can't absorb them all, and I have a knowledge of zoning that goes back forty years. I still am not clear as to what it going on with this particular application, and the language that comes from the State. I think if we could get that language and the rest of the information that he brought, you need to get the regulation section that he refers to, I want to disseminate that to the Commissioners so that they can try to absorb it for the next meeting, and we will have a discussion and see if we can come to.....and check to see if there are any amendments from the Department of Motor Vehicles.

Craig Minor: Okay.

Commissioner Sobieski moved to keep the hearing on Petition 07-16 open. The motion was seconded by Commissioner Strong.

Craig Minor: I think we need the applicants consent to keep the hearing open. We have gone beyond our thirty-five days.

Attorney Hollister: We will get a letter to you.

Craig Minor: Thank you.

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

B. Petition 06-16: Zoning Text Amendment (Section 5-8) TPZ applicant, contact

Chairman Aieta: This is the second part of our revisions and I will turn it over to the Town Planner for his remarks.

Craig Minor: I stripped out all of the language that was not being changed and whittled it down to just ten pages. So, Mr. Chairman, I think what I will do is scroll slowing and stop whenever anybody wants to talk about anything.
Section 5.1: the only change is to 5.1.7, just to change to "special permit", but also added the phrase, "Special Permit or substantial changes shall require a new public hearing". The next couple of pages, we have two sections of the Zoning Regulations that sort of do the same thing. 5.2 is "Procedures and Requirements for Site Plans", but there is another section later on, 7.4 which is a check list of everything that it supposed to be on the site plan. The two should read exactly the same, but they don't, so I have made the two sections consistent with each other.

Chairman Aieta: Are there substantial changes?

Craig Minor: I don't believe that there were any. This is all information that needs to be shown on the site plan.

Chairman Aieta: Under 5.2.15, it appears that you eliminated A.

Craig Minor: Yes, because it appears somewhere else in the regulations, so it's redundant. Let's move on to the "Removal of Earth Products" regulation. It's been a while since we looked at this. Under 6.4.2A, I added the applicant shall submit a site plan of the area where the removal is proposed, which is not in the regs now, so right now the staff doesn't really know how to react to an applicant because we don't have a plan. If this amendment is adopted the applicant will have to give us a site plan to show whether it was a safe proposal

or not. 6.5: Filling of Land, it looks like I deleted a lot, but it's only because all of that is redundant of the special permit process. The special permit process already require this. As of right: the regulation doesn't currently say what somebody can fill without a permit, it's kind of unclear, so this simply says that someone who is constructing a building for which a building permit application has been submitted, is allowed to fill. Agricultural operations: as long as they submit a site plan showing where the fill will be for their farm. C: where such filling operations have been approved by the Commission as a part of a subdivision plan, they don't need to come back and get a special permit for that addition and regrading of a residential lot to improve the property. Again, they will have to give us a site plan that the Town Engineer will use and be sure there is no design flaw.
Then we go into the Special Permit process. When someone wants to bring in a substantial amount, which is anything that exceeds the amount that is allowed as of right, will have to apply for a special permit. They need to submit a site plan to the Commission as well.
The Green Space Landscaping and Buffer Requirements....

Commissioner Sobieski: Mr. Chairman, can Town or State-owned property count as someone's required green space?

Craig Minor: They can't take credit for any land other than their own.

Commissioner Pane: Then only land that is your property is counted for green space, and ten percent has to be within the lot limits.

Craig Minor: Right, plus land that is in the side yard setback areas doesn't count towards your required green space.

Chairman Aieta: Under this section, you removed the thirty-five foot section. Why?

Craig Minor: I condensed it down to one sentence, because the existing sentences are vague. We got into discussions with developers who weren't sure what it meant, so I thought, let's say what we mean. No accessory structures, no above ground utilities, no pavement shall be placed in the front yard on the Berlin Turnpike. Now, hopefully, we won't get asked by developers if they can have a sign, or a utility cabinet. Any structure is prohibited.

Commissioner Pane: But now you are getting rid of the 35 foot buffer.

Craig Minor: No, "in the front yard". The front yard is the 35 feet, by definition.

Chairman Aieta: Only on the Berlin Turnpike.

Craig Minor: Well, this paragraph only applies to the Berlin Turnpike.

Chairman Aieta: Where does it state the front yard is 35 feet? Is it in the chart somewhere?

Craig Minor: Exactly.

Commissioner Pane: I'd like it to be in multiple places.

Craig Minor: Okay. I can do that.

Accessory apartments: we are adding a new sentence at the end: "A request to renew the accessory apartment use, or transfer it to another property owner shall require the approval of a new special exception. Currently it is not clear to people whether they need to get the

transfer, so this will make it clear that yes, it expires basically when you sell the house unless the new owner comes in and gets a permit.
Section 7, Zoning Permits: I added the phrase, "location of the structure", and then something new: "The Zoning Enforcement Officer shall provide a statement of Zoning Compliance upon request and upon payment of the fee established by the Town Manager." This is a standard practice for Zoning Enforcement Officers in every town, but putting it in the regulations make it clear that this is something that we will do for someone upon request.
"Surety which deals with the bonds": I'm changing paragraph C because paragraph C says that the Town Engineer shall estimate the cost of the bond, and that is not how we do it, because that is a lot of work for the Town Engineer. What we have been doing, which the regulations should reflect, is the developer submits a list of items, quantities and estimated costs which the Town Engineer then reviews. It doesn't get to me until the Town Engineer agrees with it. Then, in paragraph D, I'm substituting the phrase, "negotiable security" for "surety"; and taking out passbook and CD's which are obsolete, I don't think passbooks and CD's even exist anymore.
Section 7.4: this is what I was saying before about this section of the regulations which is supposedly a check list, but it actually indicates requirements of the site plan that are not in the previous section of the zoning regs. This is all an effort to make the two sections consistent.
Under "Lighting" I'm deleting "high-pressure sodium type fixtures are preferred". Again, that is probably archaic; we like LED these days plus I think any regulation that calls for a specific product or material is guaranteed to become obsolete.
As the Commission knows, we are deleting most, but not all, of the "waiver" language because we now know that the Commission does not have the authority to waive the zoning regs. Only the ZBA can do that. But that's not to say that the Town Plan and Zoning Commission doesn't have some discretion when there are extenuating circumstances that are clearly spelled out in the zoning regs. This is one of them. "Existing contours in excess of fifteen (15%) percent shall be identified by shading on the plan. These areas shall be kept in their natural condition and not modified, currently, unless waived by a two thirds vote of the Commission." I think it is reasonable for the Commission to have some discretion in determining which open space should be preserved and which shouldn't. For open space that the developer can take credit for as part of his plan, I think that the bar should be high in doing so, and that is why I am suggesting "unless the Commission approves it in accordance with a Special Permit." So we are taking it out of the "by a two-thirds vote" realm, and making it by special permit. That way the Commission still on a case by case basis can provide relief to an applicant from this regulation, but in a way that is consistent with state law.

Commissioner Pane: I think we put that in there because we don't want that 15% slope to be built on.

Craig Minor: Right, exactly, but there might be a unique situation where it makes sense to allow a developer to develop on that steep slope, which is why your regulation has always given you the ability in those rare circumstances to allow a developer to do so. The regs currently give you the ability to do that, just by law it shouldn't be a "waiver", it should be via the special permit process.

Commissioner Pane: I think we put that in purposely for the fact that they would gain extra open space. If I'm not mistaken, that was put in there so those slopes should not be touched, outcroppings and such. The Commission made a determination that they did not want to touch them.

Craig Minor: But apparently the Commission felt that there might be circumstances where it would make sense to allow a developer to develop that steeper slope with the outcrops, because the Commission gave itself the ability to do so by a two-thirds vote.

Chairman Aieta: I think drawing a strict line on the 15% slopes is too restrictive. I mean, we are down to the portions of land in Newington where we have extreme conditions, and to put more restrictions on them, it's too much. I think that we should have the ability to be able to look at each individual case and make a determination whether we want to approve it or not, but to say strictly 15%.....

Commissioner Pane: I agree with you Mr. Chairman. Now that I think about it a little bit more maybe that is in there if somebody was bringing a road through, and there was one outcropping in the middle of the road that was proposed.

Craig Minor: In paragraph 7.4.18, we deleted the sentence "subdivision elevations may be required where questions arise as to surface or sanitary drainage for low lying areas". I'm deleting that because there shouldn't be anything in the zoning regs that talks about subdivisions. Those are two completely separate documents, so there shouldn't be any language in here about subdivisions. Because if I was a developer and I was preparing a subdivision plan for the Town of Newington I wouldn't think to pore over every page of the zoning regulations. I would look at the bulk tables to make sure that the lot that I am creating is big enough, but I wouldn't think to go to the section on site plans for a rule about my subdivision. I'm just thinking...

Chairman Aieta: Is it anywhere else in the regulations?

Craig Minor: Well, that's what I am just thinking. I will double check to see if the same point is made in the subdivision regs somewhere.

Map title: just indicating what information should be in the title block. Forms: I'm deleting the requirement that they submit the application in triplicate because it is useless. I just need one original, and from that original I make as many copies as I need. Plans: the rule currently calls for five copies. That's enough for the staff, but that doesn't leave any for the Commissioners. What some towns do is have the developer submit fourteen, fifteen sets of full size plans, some for the staff and the rest for the Commissioners, but they are very bulky. You don't want them. I can't mail them to you because they are too big. So I'm suggesting, and this is what we did in Cromwell, have the developer give me ten sets that are half size, sort of that size there, small enough to be mailed but still big enough for you folks to get a sense of what is being proposed, and five full size sets.
7.5 is the chapter that talks about the zoning amendment process. The last paragraph in the section talks about withdrawal, and we had a discussion about this. Currently it says that after a public hearing on a proposed amendment, if the applicant withdraws the application he cannot resubmit for a period of one year. When I first noticed this regulation I thought, well, that is odd. Why would we want to make it hard for an applicant, when he realizes that his application maybe wasn't as well written as he thought, to withdraw it, fix it, and resubmit? Why make him wait a year to come back with a corrected version?

Commissioner Pane: Usually if someone realizes that they need to withdraw, we let them withdraw without prejudice, so that they can bring it back. I think that was in there for somebody that gets denied, and they want to bring it back without any substantial changes. So they are bringing back the same plan that gets denied almost.

Chairman Aieta: I think that is exactly why we had it in there.

Craig Minor: My feeling is that we charge $500 per application, so I think that would keep someone from frivolously reapplying. They won't reapply unless they truly think that they fixed whatever the problem was that caused them to be denied, or they read the tea leaves and withdrew before they had a chance of being denied.

Chairman Aieta: If they regurgitate the same thing, then we deny it again.

Craig Minor: That's right, and cash their $500 check.

ZBA: I just deleted a couple of words, and a phrase that didn't make any sense. I deleted 8.2.7: "if after a permit has been authorized by the board, if the permit is not lifted from the board within six months, it is null and void." Well, I don't know what lifted means. And we are required by law to send the variance by certified mail, the applicant doesn't come to the office and get it from me, so I don't know what that means. And even if the applicant had to acknowledge receiving the variance, or something like that within a six month period, it can't be nullified just because they didn't have a copy of it, that's like revoking it without any due process. So I'm recommending that we delete this paragraph.

That's it for the regulations. Now we are into the Definitions section. "Cedar Mountain ridgeline setback area": just adding a few words to make it clear what this is talking about. "Frontage": adding a couple of words to make it clearer. We don't currently have a definition of "lot line" even though the phrase is used quite a bit. "Through lot" is a lot having frontage on two parallel streets. "Sign": believe it or not we don't have a definition of "sign" in our regulations. We have definitions of different types of signs, like wall signs, yard signs, free standing sign, but we don't have the definition of sign itself.

Chairman Aieta: Where did you get these definitions?

Craig Minor: I use the standard dictionary of zoning terms which I have been using for many years. It's published by Rutgers which has a master's program in city planning and been a reference source for many years. Anytime I present a definition to you, it's from that book.

"Billboard": we currently don't have a definition in the zoning regs, so I'm suggesting that billboard be defined as "a sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location that may be other then the premises on which the sign is located." The phrase, "that may be other than the premises" was requested by Commissioner Pane when we had the discussion about the car signs on the Berlin Turnpike a few months ago.

Commissioner Pane: Yes, this looks pretty good.

Craig Minor: "Structure": our current definition of structure is "a walled and roofed building that is principally above ground", but our definition of "building" has the word "structure" in it, so that is not good. So I went to the dictionary of zoning terms, and I suggesting that we define structure as "a combination of materials to form a construction for use, occupancy, or ornamentation whether install on, above or below the surface of land or water". I'm keeping the next sentence in our current definition, "this includes a gas or liquid storage tank, as well as a manufactured home". That has been Newington's practice, and I see no reason not to continue doing it.

Commissioner Sobieski: Is the State or the Town still allowing in-ground storage tanks for fuel oil?

Craig Minor: I don't think the State allows them. The Fire Marshal has to sign off on the installation and removal of underground storage tanks, and I don't believe that he does.

Commissioner Sobieski: Well, it says "gas or liquid storage tank".

Craig Minor: Yes, but I'm just using it in a definition, I'm not saying if it is allowed or not.

Commissioner Miner: Gas storage tanks are still being used.

Craig Minor: Right, above ground.
"Variance: I thought the current definition of variance is confusing, so again I went to the zoning dictionary and used that. That is it!

Chairman Aieta: Okay, I'll open it up to the public. Anyone here wishing to speak in favor of the amendments to the regulations, come forward, state your name and address for the record.

John Bachand, 56 Maple Hill Avenue: I was wondering if you were going to get to that structure issue, I'm glad you brought it up. I have some serious reservations about that, and I would ask the Planner to tell us the name of the book, and where it is from, that he gets this definition from, because the combination of materials to form a construction for use, occupancy or ornamentation, I know we were kind of teasing him about, could that be a bird house, or a picnic table, it's so ambiguous, it's just about any two things that you put together. If you put two sticks together, it's a combination of materials, so I'm a little concerned about that. Also, the discussion of gas or liquid storage tank, we could talk about that too. Is that a propane grill, is your propane grill tank a structure now? You can't put it within ten feet of the property line or whatever restrictions would be there. I understand his reasoning, it can't be just a wall of a building, I do understand his reasoning for wanting to better define that, but I think that is so ambiguous, and I tease him about that too, because it is from some guys in New Jersey or something, and we should follow our own state, not looking at New York or New Jersey for our references.

Chairman Aieta: I don't know if there is another reference book that is specifically for the State of Connecticut.

John Bachand: No, I understand, just a little teasing…

Craig Minor: Okay, it's the "New Illustrated Book of Development Definitions", by Harvey S. Moskowitz and Carl J. Lindbloom, and it's published by the Center for Urban Police Research at Rutgers State University in New Jersey.

John Bachand: Just throwing it out there, do we want to follow New Jersey's definitions for our use, but again, you weren't here when I mentioned the idea of any two materials nailed together becomes a structure and the idea that any gas tank or propane tank is a structure in itself. I have some serious reservations about that.

Chairman Aieta: Do you want to address that?

Craig Minor: Well any regulation, any definition can be carried to a ridiculous extreme, but we wouldn't. We would apply the regulations in a common sense way.

Chairman Aieta: And that is the definition that is for structure?

Craig Minor: Yes.

Chairman Aieta: Any Commissioner remarks, questions? Anyone else from the public wishing to speak in favor of this application? Anyone in opposition to this application? Seeing none, we will leave this open. Do you have any comments you wish to make at this time?

Commissioner Pane moved to leave Petition 06-16 open. The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YEA.

Chairman Aieta: Okay, we will leave it open to the next meeting, make some corrections to the things that we talked about.

C. Petition 18-16: Special Permit (Section 6.2.4: Freestanding Sign) at 177 Day Street (Newington Veterinary Clinic; Sign Pro Inc., applicant, 177 Day Street, LLC, owner; Robert Kuszpa, Sign Pro Inc., 60 Westfield Drive, Plantsville CT, contact.

Robert Kuszpa, Sign Pro Inc., 60 Westfield Drive, Plantsville: We are here representing the Newington Veterinary Clinic and their proposal for a new identification sign. This slide here shows the proposed sign, and the location compared to the exiting sign. The existing sign looks very clunky and dated, almost like it should be a machine shop or something. The new one is more (inaudible) with the cats playing on one side, dog on the other side. We noticed that on the original sign they carried the colors of the building, I have a photo here of the building, where the grain satisfied the building code so they used it on this sign also for the lettering.

Chairman Aieta: Is that the location of the sign?

Robert Kuszpa: That would be the new location. The current sign is even with that building in the background which is the property to the left, and their parking lot, you can see it in front of their building, if there are people parked there, you cannot see the clinic sign.

Craig Minor: We have a site plan.

Chairman Aieta: You moved it quite closer to the road than the original sign. Does this meet the requirements of our regulations?

Craig Minor: I asked the ZEO to review this application and he has confirmed that yes, it meets the requirements.

Robert Kuszpa: It was brought up when we wanted to relocate the sign, and also make it more attractive that the current sign was too large, so we downsized the new sign. We are still going to have external illumination. The current sign has the light bar mounted across the bottom of the sign, and this one being a more light appearing sign, we will have the lighting on the ground. I don't know if Mr. Minor has the other pictures I gave him.

Craig Minor: Did you e-mail it to me? Let me find it.

Robert Kuszpa: During our application it was brought up whether we considered having a sign on the building also, and (inaudible).
Here in the picture you see that white SUV that hides the sign.

Chairman Aieta: Are there any other signs this close to the property line?

Craig Minor: Along that street, I don't know.

Commissioner Miner: Further down the road there is this multi-tenant building and they have a sign……

Robert Kuszpa: I think it's 135. I don't know how close it is to the property line, but it's a distance from the road.

Chairman Aieta: Anything else?

Robert Kuszpa: No.

Chairman Aieta: We'll open it to the public and let them have the opportunity to comment. Anyone wishing to speak in favor of this application, please come forward and state your name for the record. Anyone in opposition to this application? Seeing none, any Commissioner remarks? Comments?

Commissioner Serra: I would just like to say I have gone down there quite often and that sign, the existing sign does sit pretty far off the road. It's easy to miss the business, easy to miss the building. I don't think this is a stretch at all. I'd be in favor of this.

Chairman Aieta: I remember this area, there are no residents, and this is all commercial area.

Commissioner Sobieski: I would also be in favor along with Commissioner Serra.

Chairman Aieta: What is your favor on this?

Commissioner Pane moved to close Petition 18-16 and move it to Old Business for the next meeting. The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YEA.

VII. APPROVAL OF MINUTES

A. Regular Meeting April 27, 2016

Commissioner Sobieski moved to accept the minutes of the regular meeting of April 27, 2016. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion, with six voting YEA.

B. Regular Meeting May 11, 2016

Deleted from the Agenda

VIII. NEW BUSINESS

A. Petition 17-16: Site Plan Modification at 2355 Berlin Turnpike (McDonald's Restaurant) McDonald's USA, owner/applicant, Eric Dubrule, Bohler Engineering, 352 Turnpike Road, Southborough, MA, contact.

John Kucich: For the record, John Kucich from Bohler Engineering, Southborough, MA., When I presented the application at the last hearing I brought the plans showing the drive through locations, I don't think anyone had any questions on that, but at the conversation at the end of the hearing lead to some concerns about the location of the driveway, and the Commission asked what we could do about that. What I have up on the screen are the changes that are proposed. First and foremost, you will notice the island, the lighter lines on the island is the existing island that is there today, the darker lines shows what is proposed as an enhancement to the area. The concern was for the folks taking a left hand turn where they shouldn't be, and constructing the island so it would be more difficult to make that turn.

I also added a note that says that the island will be painted yellow. There again there was the concern that you can't see it. By painting it yellow, not only will be have the curbing there but it will stand out a little bit more. Beyond that, we had previously discussed the turn on the left hand drive, we had discussed this last time, but just to reiterate, there was a sign that was originally constructed there, that sign has since fallen off, we discussed this sign here, there is gong to be a stop sign. Folks coming out on the other side, we are proposing another No Left Turn sign, we also discussed as approaching, which is true, coming in this direction there is an existing No Left Hand Turn sign there, which the view is partially obscured by an existing telephone pole. Right about in this location here. We are proposing to relocate that sign here, in front of that pole so you would now have more No Left Hand turns signs, one here, one here, and you will also have a more restrictive island in that location there, and that would be painted a yellow to further improve the ability to see it. I believe those were the issues that we had discussed. I wanted to present the plan showing a little more detail as to how I think we an achieve that.

Commissioner Pane: When I was there last, I noticed that people would leave that exit, they would exit there and they would just turn out left, because there's no mechanism to make them go right, so what are you going to do to solve that problem?

John Kucich: I don't think that is a problem, I think that is the way that it was actually designed. If it was to be restricted, it would have been a right in, right out driveway, and again the original approval was to allow left hand turns coming out of there.

Commissioner Pane: I didn't think they were allowed.

Chairman Aieta: It says No Left Turn on East Robbins.

John Kucich: That is correct, that is new.

Chairman Aieta: So someone who is approaching that exit can take a left onto Robbins Avenue?

John Kucich: That is correct. That is consistent with the original approval.

Chairman Aieta: So you believe that they can take a left there?

John Kucich: I think the traffic analysis the first time around when this was built.....

Commissioner Miner: That No Left Turn side was always confusing to me as to whether or not it was in the wrong direction, to indicate a left going out.

John Kucich: That sign was there about a year ago, and will be replaced.

Commissioner Sobieski: Where you are going to have the stop control, would the Do Not Enter sign be more appropriate there? The reason I'm asking is that if they can't see the left turns there, if you put that red Do Not Enter sign, it will jump out at them versus the smaller ones. It's only a thought because not too many people will be driving and looking down at the road to see what it says.

John Kucich: I don't disagree with that comment. I think where we are proposing a No Left Turn as they are going in, it may be better suited to have a full Do Not Enter sign in that location. I think that is a valid comment. You would have a No Left Turn on the side up here, you have No Left Turn there, so you have that in two places, and you could have a Do Not Enter here. That would be no problem.

Chairman Aieta: Are there any further questions of the applicant from the Commissioners?

Commissioner Miner: The only question I have for you is the standing line for queues. I sat there for lunch on a couple of different days just to take a look, and it seems like that would back up almost to the point of blocking all of the handicapped spaces.

John Kucich: The reason they do this, the issue for the drive through today is the menu boards are much closer to the windows, so say you have sixty feet from the first pick up window, to the menu boards where they stand today, i.e., three cars. That is not enough time to process your order. So by the time that you get to the window, it's not there, thereby that queue line is not moving, it's stopping, so that is when the queue starts going back, when that queue line is not moving. By sliding everything back you are going to have room for five cars, and then provides enough room for when you give your order, the food is prepared and everything moves. Again, they have thousands of these, and that is the way that all of them know, this original one was constructed, it was the first one in the state, if not the very first part of this program as well, so after the first time around, they realized what works and what doesn't work, and what is being proposed now is the optimum of efficiency to allow the order to be placed and have the food be ready so the lines keep moving. It actually moves the queuing from behind the order stations to in front of the order stations.

Chairman Aieta: So does McDonalds have a lot of renovations to their existing facilities of this type of a plan now, do they does this all over the country to upgrade to this format?

John Kucich: All over the place. So essentially, if they are going to be constructing a new restaurant…

Chairman Aieta: No, no, I'm talking about renovation.

John Kucich: Understood. I they have a restaurant that is old, they are making improvements to the kitchen as well as the drive though, so they doing this across the board, and probably have 20 to 30 active projects now with similar types of construction.

Commissioner Sobieski: Where you have the stop bar, the stop control on the inside here, is that going to be one way down, would that be correct, heading west?

John Kucich: This is one way.

Commissioner Sobieski: My strong suggestion would be to put something else, stopping someone from not seeing that, and going up there. Put a Do Not Enter sign. You don't want somebody making the turn and going up there and disrupting the flow of traffic.

John Kucich: I don't think that has been a big issue, but that does make sense.

Chairman Aieta: Anyone else? What would the Commission like to do with this application?

Commissioner Pane moved Petition 17-16 to Old Business for the next meeting. The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YEA.

B. <u>Petition 20-16</u>: Site Plan Modification at 80 Fenn Road. Fenn Road 80 LLC, owner/applicant; Joseph Sullo, Wethersfield CT, contact

Russell Heintz: Representing Joseph Sullo.

Chairman Aieta: This is a site that we have already gave approval to. You are making a different modification. Explain to us what changes are being done.

Russell Heintz: When we did the first one, we were entering through 30 Holly Drive which is to the south of this property, and installing a loading dock on the rear of 80 Fenn Road. After the approval process and after the tenant looked at this whole situation he felt that having a right of way through the back of the Holly Drive parcel would probably hurt its resale value at some future date, and the LID requirements were too expensive. So we went back, looked at it, and decided to keep the entrance to 80 Fenn Road from the front as it was originally. We also removed the rear loading dock and are installing a loading dock inside of the building towards the rear of the property. We added an LID bio-retention basin next to the entrance, and a catch basin in the loading dock, and replaced some of the pipe. Other than that, the site itself will remain the same. We will remove the old entrance on the south of the property, and increase the green space.

Chairman Aieta: Are there any changes to the other property at 30 Holly Drive?

Russell Heintz: At this point, no.

Craig Minor: I had the Assistant Town Planner review this plan and the only issue that he found was the discharge - there's currently a splash pad, this area here, which was probably approved by the neighbor sometime in the past, but the applicant should get a copy of the easement to prove that they do in fact have the right to drain onto this property. If the Commission wants to approve it, that could be a condition of approval. That is the only issue.

Chairman Aieta: We wouldn't probably be voting on this tonight anyway.

Russell Heintz: We do discharge into that stream, however that headwall is on our property and the pipe just goes right out of that headwall. There is no splash pad there now, it is basically falling into that existing rip rap basin. I have not found an easement in the land records from either the Town or anybody.

Craig Minor: And you say you have looked for one?

Russell Heintz: The best we could.

Craig Minor: Do you specifically look for that?

Russell Heintz: No I didn't. But as far as our discharge, we discharge onto our property, and then it goes into that stream.

Craig Minor: Okay, we can discuss this more tomorrow.

Russell Heintz: Would you like me to check? But I know that back as far as 1973 there was no easement. But I can go farther back than that.

Chairman Aieta: Who put that riprap in, was it the other property owner?

Craig Minor: That's the question. Why would the property owner to the north have done it especially if you said...I've never walked this property, so I'm not visualizing what you are saying. I hear what you are saying and I might agree with you, but I think we need to spend a little more time looking at this issue.

Russell Heintz: That riprap, to the best of my knowledge, was put in by the Town of Newington.

Craig Minor: That is possible.

Russell Heintz: That's Newington's drainage system that discharges there. The discharge is right next to where our headwall is which when Fenn Road was built back in the late '60's, early '70's.

Chairman Aieta: Well, let's get clarification to that.

Russell Heintz: If there is no easement, I don't think we can get on at this point.

Craig Minor: Let's talk about this, not now, but tomorrow.

Russell Heintz: Not until we cross that bridge.

Craig Minor: I think we have reached the bridge, but we don't need to talk about it right now.

Chairman Aieta: It looks like that condition has been there for a great number of years. They aren't making a change to anything there, but let's clarify it anyway.

Commissioner Sobieski: The new catch basin next to the loading dock that is going to go out to the system. Are you going to have some kind of separator for oil and water, anything like that?

Russell Heintz: I think the last time we were here we said we would do that, and I will specifically add that to the plan. We will add an oil/water separator.

Chairman Aieta: I think that is in the loading dock area. If trucks are being parked, you could get oil into this system.

Commissioner Camillo: You are going to have trucks and trailers there with material, you would have drippings from the trucks and trailers, it would wash down, so you need a separator there too.

Russell Heintz: I think what we will probably do is add the oil separator to the drainage system just before it leaves the property.

Chairman Aieta: So you are not going to have one at the loading dock?

Russell Heintz: I think it is simpler to have one just in one spot.

Chairman Aieta: Well, we are debating if you really need one at the loading dock.

Russell Heintz: I understood and I think that at the last meeting which we agreed that we would put in an oil separator.

Chairman Aieta: That takes care of that, it makes more sense.

Commissioner Pane moved that Petition 20-16 be moved to Old Business for our next meeting, for action. The motion was seconded by Commissioner Sobieski.

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

C. Alumni Road, Traffic Signal

Craig Minor: This is on the agenda to make the Commission aware that a public information meeting has been scheduled for Monday, June 6th, that was the first date that we could find that, for one thing the auditorium was available, that was consistent with people's schedules. So it will be at six p.m. in the auditorium, that's the Monday before your next meeting.

Commissioner Sobieski: We did send letters out to everybody.

Craig Minor: Yes, close to 300.

Chairman Aieta: I have a comment. I watched the Council meeting last night, and one of the Councilors brought up that she perceived that this Commission did not have the authority to look at this, that it was a policy decision that should have been handled by the Council. I would like, for the record, and hopefully it gets back to Councilor Klett that under our 2020 Plan of Conservation and Development, I'll just read an excerpt for you, for the public and for the record. On page 44, under Transportation, "the strategy, roadway general, item number five, this Commission should ensure the potentially hazardous roadway conditions are corrected with as little as possible impact to the property outside of the road right of way," and under that same section, Item number nine; "consider the realignment of Maple, Cedar Street and Alumni Road intersection, and the realignment of Alumni Road near the athletic field parking area." It's obvious that the 2020 Plan gives us the authority to proceed the way that we have, we're not making policy decisions here, we're doing this based on safety. We will have our public information meeting with the public, gather that information, put together a package and send it to the Council. The Council is the authority to do what they want with it. They can send it forward to the DOT, they can change it, they can hire an engineer, they can do whatever they want. We're providing information which is part of our charge, and part of our 2020 Plan, our Plan of Conservation and Development. So when the Councilor makes a statement publicly, that this Commission is acting outside of its purview, I take offense to it. She should have done a little more homework and read the 2020 Plan that she approved when she was on the Council. I'll turn it over to the Planner, do you think that I am out of line as far as this Commission's authority to look at this? It was brought forward by Commissioner Sobieski, it was brought to the Council and it was brought to this Commission, put together a subcommittee, pursued it further, are we out of line here?

Craig Minor: As you said, you intend to refer it to the Council for final action. I think it is appropriate for TPZ to initiate something like this and then at the appropriate point turn it over to the Town Council. You are acting within your authority as a Planning Commission.

Chairman Aieta: Just to be clear, this meeting that we are having on the 6th of June, it's not a public hearing, it's an informational hearing for the residents in the area so that they can come forward and give us their opinions and give us their thoughts on this whole process. We will hear from the public, and if there is anything that we can incorporate to make it a better plan to send to the Council, we will do that. I don't see where we overstepped our bounds, I think that we were doing a service, and it bothers me when I know that the Chief of Police almost got killed that day at that intersection, not more than two years ago. This is something that has been kicking around for over twenty years, and it was on the Council's agenda twenty years ago, and it got killed for some political reasons. Now it's getting worse and worse and worse, it's just a matter of time before someone gets hurt, and it's our responsibility as a Zoning Board that the health, safety, and welfare of the citizens of the Town of Newington are protected. That is our charge.

Commissioner Sobieski: Again, this is a safety issue. I'm not here to design it, we're here to listen, prepare a plan, submit it to the Council and that is as far as we go. It's up to the Town Council to act on it. Be cognizant of two facts: number one, there is a DOT project out there

now that is going to end at Alumni and put turning lanes in. They are going to be widening the deck of the bridge overpass. That was voted on - actually it was brought to the Town's attention I believe almost two years ago. There was a public information meeting right here, I believe the Town Engineer was there, and there were only about six or eight people, myself and Rose Lyons and I think Carol Anest was here, and we listened. We had some issues, they were addressed, and that project is going forward. It's not a question of trying to realign this here and take property, no. It's a safety issue, and that is the big key here. Somebody gets killed out there, or gets seriously maimed or hurt, it's a tough thing to live with. You can see the traffic volumes increasing yearly on Route 175. It is a four land roadway, which is a mini-expressway going though the center of town. There is nothing you are going to do. Road diet will not work, nor will anything else and you definitely, the longer you put this off, the longer we debate this and try to get everybody on board, or try to make everybody happy, which we won't, again, it's a safety issue. That's really all I want to say because I look at Facebook periodically and people are putting things on there, I don't know where it is coming from. Thank you.

Chairman Aieta: Any other comments from the Commissioners?

IX. OLD BUSINESS

None

X. PETITIONS FOR PUBLIC HEARING SCHEDULING

A. Petition 22-16: Special Permit (Section 3.15.3: Restaurant) at 2551 Berlin Turnpike (The Sloppy Waffle) The Sloppy Waffle, applicant, 2551 Berlin Turnpike LLC, owner; Luz Ramos, 164 Eddy Lane, Newington CT, contact.

Craig Minor: Just very briefly, this restaurant was approved by the TPZ a number of years ago, in fact the Commission might remember, they came back later on for approval for outdoor dining and it turns out they expanded within the inside without coming to TPZ for approval. It came to the Commission's attention and the Zoning Enforcement Officer spoke to the operator, explained to her that she needed TPZ approval, so she has now submitted the application and I recommend that you schedule it for a public hearing at your next meeting.

Chairman Aieta: I would ask the staff to give us a complete breakdown of the parking, the tenants that are in there, what their operations are, so that we can get an accurate determination of what the parking is. You have to remember that this particular piece of property, the Zoning Commission waived twelve parking spaces a number of years ago, I believe it was before the Sloppy Waffle came in, so, there was never a restaurant there. Now there is a restaurant, that we allowed to expand to the outside with patio seating and now they are looking to expand even further. We did waive twelve parking places because of the tenants, but now the use has changed into a large restaurant, and now that restaurant wants to expand, I believe it is more than doubled the space that they have now.

Craig Minor: Correct.

Chairman Aieta: Something that we want to look at very carefully, we don't want to overburden the site and people parking on the medium, or across the highway. At this point they are not using that new space, I'm asking the question, I don't know.

Craig Minor: I can't say, I know they were told not to.

Chairman Aieta: Okay, so it's on for the next meeting.

XI. TOWN PLANNER REPORT

Craig Minor: There are three items in my report. The first is the proposed Open Space Zone. About a year or so ago, the TPZ decided that having an actual open space zone where essentially nothing would be allowed except parks, agriculture, open space, nature sanctuaries, that kind of thing, would be good for the Town. I was working on it, but it got overtaken by some other issues, but the issue came up at a meeting of the Open Space Committee so I will resume work on it and have something for you at the next meeting or so to resume discussing it.

The next item I want to talk about is the POCD. The POCD as we just heard contains a number of recommendations, some of which have been implemented, but there are still some that haven't. One area that has become of interest to the Town, and to me lately, is the issue of bicycles and pedestrians. The POCD does in fact recommend some actions, that we address bikes as transportation, so I am going to be meeting with the staff within the next few weeks to come up with a process to address this recommendation number ten, "the continued construction of sidewalks along arterial and collector streets, with the highest priority on extended walks in residential neighborhoods near schools." I will be meeting with the Town Engineer; the Highway Superintendent; the representative from the Board of Ed, who is responsible for the transportation of buses; police Lt. Morgan who is the local traffic authority; all will be participating in this discussion. I will keep you informed on that.

Finally, just to bring it to your attention, the high-density residential moratorium expires soon. The Commission has adopted TOD regulations for the Cedar Street station area, but the Newington Junction area will be open to any of the types of housing allowed under the regulations. That theoretically would make it possible for someone to make an application for some kind of a higher density residential use. So, the TPZ might want to discuss a timetable for adopting regulations in the Newington Junction, so that we have regulations on the books that protect the character of the neighborhood and assuage residents' fears that CTfastrak is going to transform their neighborhood in a bad way. Just food for thought.

Chairman Aieta: We were supposed to move into the Day Street area, Newington Junction area. When do we put that on, to start working on that? Have you done any work at all on that?

Craig Minor: No, I haven't done anything yet.

Chairman Aieta: Would you give us a time period?

Craig Minor: Okay, I'll give myself a deadline of two meetings from now to have a draft very you, a very drafty draft with all kinds of "Craig's suggestions" as a starting point for discussions, and then bring it to a public hearing. But you should kick it around yourselves for a couple of meetings first.

Commissioner Pane: Can the moratorium be extended for four to six months, a pre-determined time?

Craig Minor: It could, but it's the same process as adopting it in the first place, which means a public hearing and filing it with CRCOG thirty days before the hearing.

Commissioner Pane: Just to extend it?

Craig Minor: Just to extend it.

Chairman Aieta: I don't believe the existing zones in that area lend themselves to high density housing at this point.

Craig Minor: They don't lend themselves, but technically there are several types of relatively higher density housing that is allowed with a special permit in all residential zones. So, theoretically…..

Chairman Aieta: Under a special permit.

Craig Minor: Yes.

Chairman Aieta: But before we determine how we are going to handle that particular area, I wouldn't want anyone coming in to do something before we got through this process. If someone came in I would hope you would be able to tell them that we're in the middle of adopting TOD regulations for that area, and I'm sure, you couldn't stop them, but I would think that this Commission would not look kindly on that type of a thing just before we start working on TOD regulations for that area.

Craig Minor: Right. I have not heard anything, not had any phone calls from people asking questions about the regulations as if they were preparing to drop something on us on June 17th.

Chairman Aieta: How long do you think it will take us before we can get through it like we did the Fenn Road thing?

Craig Minor: Probably three or four months. You will need a public hearing, and rewriting it.

Commissioner Pane: I think we should extend the moratorium, apply to CRCOG, hold a public hearing on it, put it on as soon as you can, and explain to the public that we need additional time on it. We did Fenn Road, we got that one off, it's ready to go, but we need a little bit more time on this one. I think that is legitimate.

Chairman Aieta: I see everybody nodding their head. If that is the way that we should go, this Commission is ready and able to take on the task of this next part.

XII. COMMUNICATIONS

A. CRCOG Zoning Amendment Reports

Commissioner Sobieski: I attended the CRCOG meeting last Thursday, a couple of things that came up. One of them was that this Commission should take a look at those walkways, see what needs to be connected. The other issue is the bike issue again. They are trying to find a way to get it so that you can do some bicycling in the area without widening the road. Also the gentleman from Canton was talking to me about our LID regulations, where we exempted residential area, and he felt it was the same out there as it was here, that we don't want to put a lot of burden on homeowners to extensive survey work to get the LID setup for them, and several other members agreed, Suffield and Coventry. CRCOG will obviously reconsider this because of the run-off and I explained to them that our lots are small, number one, and number two, we have an issue with clay, which is probably eighty percent of the town, and there is just no way to enforce these regulations, there is no way we can do that. My stance then, and still is today, unless this Commission tells me different, there is no way that I am going to see a homeowner burdened with another three thousand dollars worth of stuff to try to put a rain garden in that won't work in clay.

Chairman Aieta: You want to know another way we could achieve that, have the town and the State clean the channel ways of brooks and streams that we dump into, our storm water system, because all of them are clogged. So we're trying to alleviate a problem because of maintenance. If they want through, I know of one right on the Berlin Turnpike that is so clogged with car parts and grocery carts and all kinds of different, refrigerators and stuff, that hasn't been cleaned in twenty-five years, and they are wondering why it is backing up. You want to do something, do that?

Commissioner Sobieski: That is a state wide issue, and what happens with Piper Brook for instance, it starts to meander to the east a little bit, and I believe that I did mention to the Town Planner and the Town Engineer that could contact somebody at DEEP and try to put some rip rap to stop that, which is causing the undermining of the trees and causing them to block the brook. I gave a contact to Mr. Greenlaw, you might want to look at that. Piper Brooks is loaded with trees that have fallen down, take that piece by Willard Avenue, you see trees where trees have fallen down it has actually created a little island in there now where the water splits and goes around this way. It's happening all the way through all of the streams. The Army Corps of Engineers and the DEEP just cleaned out some of Mill Brook here. Again, the onus is going to be on who is gong to maintain it to be clean. I mean this town has thirty something detention/retention ponds, they haven't touched them since they were put in.

Chairman Aieta: And the point is, they basically want the residents to retain the water on their property when in reality they are not going what they are supposed to do alleviate the downstream problems, so they are looking for us, the citizens to do more so that they don't have to maintain their streams and brooks, not just in Newington, but all over.

XIII. PUBLIC PARTICIPATION

John Bachand, 56 Maple Hill Avenue: Regarding the Alumni Road thing, I did get my notice. You mentioned that it is not a public meeting...

Craig Minor: No, it's not a public "hearing".

John Bachand: Last time I remember all the problems when people thought that it was a secret meeting, or something like that, so.....

Chairman Aieta: It's an informational hearing for the public and for this Commission to get information from the public. So we can have a better...

John Bachand: So anyone is invited.

Chairman Aieta: Yes. Anybody can come, anyone can speak.

John Bachand: I don't think you overstepped anything. I haven't heard anything coming from the Town Council to improve that intersection, so I think you shouldn't have to be making excuses or apologizing for anything. You did the right thing Commissioner Sobieski and Commissioner Pane. One thing that concerns me is those four houses that are going to be sandwiched between to roads. We talked to one of the residents the other night, and she felt a little better after we explained some things, because she was getting a little bit of misinformation. There is one question and one concern that I have myself, and that is the, there is going to be some development open space that is going to be open for development, I saw it on the plan last week. It would be west of the newly moved over Maple Hill, or east of the old Atlantic Machine. There is a little spot in there which was originally proposed to be a commercial development. A little concerned about that, but it may be a lot to ask those four houses, they are going to have a street, and then we are going to be looking at a parking lot

or a commercial building. I don't know how big the site is, and what would fit in there, but I think before the meeting you should have some answers to those questions because I have heard a few people talking about it too. One of the neighbors that was concerned about it first thought that there would be houses going in there, but then he found out that it was zoned commercial.

Chairman Aieta: The way that that piece of property is now, can it be accessed from Cedar Street?

John Bachand: If the State would give them a little driveway I suppose. I think that has been a problem though because it is in a dangerous spot.

Craig Minor: The owner is Eblen's, the clothing store, and they're sitting on it until the right time to put in a new store. The Eblen's corporation has owned it from the beginning.

John Bachand: If you are at liberty to say, do you know what size building is proposed for that?

Craig Minor: Oh, I don't think they are proposing anything. They are just sitting on it.

John Bachand: How many acres are there?

Craig Minor: Off the top of my head, I don't know,

John Bachand: It's not really big, it's kind of a long narrow strip.

Craig Minor: It's a couple of acres.

Chairman Aieta: I can just tell you this, those four property owners, we will buffer that property from that roadway no matter what it takes. If it takes a berm, fencing, arborvitae, we're going to make that property, for those property owners, my recommendation will be that those people will be protected one hundred percent plus, if those goes through, and the road is closed, these people get the opportunity to live on a cul-de-sac and their front yard, their piece of property becomes more valuable than it is now, on the corner of one of the busiest streets in the town, and another road that is also very busy. We tried to emphasize that to the lady that was here last week, and trust me, we will do whatever we have to do. Even if there is development on the other side of that road, we will buffer those houses with fencing and tress, we will make it attractive for them.

John Bachand: Okay, thank you.

Commissioner Sobieski: Just to answer Mr. Bachand, this is a concept that is being put forward. We can address all of the issues that come up, or at least recommend that they be addressed, and you will probably get maybe ninety percent of the people who will be happy, ten percent won't. But, it's a safety issue, and that is what everybody seems to forget. It's a safety issue before somebody gets killed out there. That to me is very important. Thank you.

Chairman Aieta: Trust me, we will take into consideration that those property owners are the ones most impacted by this change and we will do everything possible to alleviate their concerns.

Rose Lyons, 46 Elton Drive: You brought up the subject tonight of the retention/detention ponds, and the streams of Mill Brook and Piper Brook. For at least seven years I've gone before the Conservation Commission and asked them who is responsible for maintaining the brooks. I wrote to the gentleman who was in change of the project many years ago.

Everybody pointed the finger at somebody else and as late as this afternoon I had an e-mail from DEEP because I asked what was going to happen to raise the brook, and if they could come and take a look at it. Yes, they are going to come in, they are going to inspect it, and from what I understand, they are working with the Towns that are involved to keep the maintenance up, but that is what was supposed to happen back when, and nobody did anything. I am just curious who is responsible for making sure that this maintenance gets done. I've gone to Conservation, and I hear you guys talk about it, and everybody says it's a matter of money. Well, no offense Jay, but if we are getting money for lighting over at Clem Lemire, don't you think maybe our state senators and our reps should be looking for some money for the brooks and streams and environmental things that have to be done? I mean, that is my feeling. When the Town comes to an agreement with DEEP, maybe Mr. Minor can tell me, would it have to go before the Town Council and will they have to approve it? Because I know the last minute glitch last time, this is what I was told by DEEP, was that the Town Engineer, not Mr. Greenlaw, would not agree to the conditions. So, I'm just curious what the process is.

Craig Minor: I know a little bit about it, since my office is next to the Town's Engineers and he has been talking about the current project to clean Piper Brook quite a bit. The question of who will be responsible for keeping those streams clear is problematic. I can tell you that the State has the authority to maintain those passageways, but I don't know if they can be compelled to; there is a difference between being able to and being required to. I have heard that the Town of Newington's participation in the Federal Flood Insurance Program is in some way connected to those streams functioning properly, their being able to convey flood water, and if those streams are not maintained in a way that allows flooding to dissipate that it could impact our participation in the flood insurance program. That's impacting people's wallets. I don't know how FEMA could come to the Town and say, we are cancelling all of your flood insurance policies because the Town or the State hasn't kept those streams clear, but from what I have heard, somehow they are connected. So, we can't go on forever waiting for some agency to take responsibility for the maintenance of those streams.

Rose Lyons: Well, that is my understanding too, and what brought this to a head was that Conservation came in, and they gave them extra time, five or seven years ago, and Conservation didn't want to hear anything about it. I don't know what the repercussions would be, but I'm hearing it the same way that you heard it. My question is, how are we going to make sure that it doesn't happen again, so that when they walk away from this project, there is a clear understanding between the Town and the State and the federal government, over who is going to do this? If there is money to be had, let's go looking for it.

Craig Minor: That long-term maintenance question is being negotiated between the Town and DEEP.

Rose Lyons: Does this have to go to the town council?

Craig Minor: Yes.

Rose Lyons: Because I would hate to see it be a contest like it was the last time between DEEP and the previous town engineer, and it wasn't Chris, but that is what happened the last time, and it just got left.

Craig Minor: The then-Town Engineer wouldn't sign off on the long-term maintenance agreement because in his opinion it was a blank check that he would be signing for Newington, and he wasn't willing to do that.

Rose Lyons: Well, maybe somebody should have negotiated to see what they could do to make it a little bit better. I was told that if I wanted to find out what was going on, that the

former Town Engineer comes in for coffee at 10:00 every morning, talk to him, and maybe he will remember what the conditions were. That was not an answer, but I didn't go away, and it wasn't because of me, it was the feds that came in and said it, but it is something that should be on the front burner in my opinion because it is important to the people along that stream and the Town of Newington itself. Thank you.

Commissioner Sobieski: Just to throw a little more light on it, that portion of the brook is under the control of the Army Corps of Engineers. That is part of the flood control and that is why it's being done. I believe what is going to happen is that the State and the feds want the Town to maintain it, but there should be some monetary attachment to it, because that is going to require a lot of cleaning because the sediment goes right back in. As far as the rest of the brook, I believe DEEP has custody and control from south of Dowd Street to one thousand feet north of Main Street on Piper Brook. The rest is the Town of Newington's responsibility. So at some point in time, somebody has to make the decision that those brooks have to be cleaned or what they have done here is just going to get clogged up in about ten or fifteen years. We will be right back where we started.

XIV. REMARKS BY COMMISSIONERS

None

XV. CLOSING REMARKS BY THE CHAIRMAN

None

XVI. ADJOURN

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Serra. The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary