

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

April 27, 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

Commissioners Absent

Commissioner Brian Andrzejewski  
Commissioner Paul Giangrave - A

Commissioner Camillo was seated for Commissioner Andrzejewski.

Staff

Town Planner Craig Minor

**III. APPROVAL OF AGENDA**

Craig Minor: Please delete "Approval the minutes". I haven't finished editing them yet.

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

Chairman Aieta: We have a tremendously long agenda tonight, so we are going to hold you to the two minutes and Mike Camillo is going to keep the time.

John Bachand, 56 Maple Hill Avenue: I want to thank Commissioners Pane and Sobieski for the presentation they did the other night. They got into a little bit of a dustup with the Town Council over rules and procedures but I think they over-reacted. It was made very clear from the beginning that a new road wasn't going to be approved by this Commission, and that it was going to go to public hearings here and public hearings there. I think they did an excellent job. It was just a brief introduction for the people who are directly impacted. I was directly impacted, and my neighbor across the street was there. The second thing is the backyard chicken thing. I ask you to keep it open because I didn't have time to do any more research into what other towns do. I'm not trying to make this town a laughing stock, and I know that some people are not too thrilled with it, but you know my position - I want to roll everything into one regulation. If this Commission did text amendments every year, but you

only do it every five or ten years or something like that, I would wait till next year to talk about the other animals, but Wethersfield is doing it, Berlin is doing it, and I wanted to research a few other towns, but haven't had the chance. Those are not exactly backwoods towns, they are as sophisticated as we are, and they are as cautious as we are. I just ask you to keep it open a little longer. I think you did the right thing by granting the reprieve on the citation. The Planner did try to explain to me some things, but I wanted to do a little more research. Thank you.

Peter Arbor, 132 Tremont Street: I was going to speak about the Alumni relocation intersection. I thought Commissioners Pane and Sobieski did an excellent job in putting the issues into perspective, explaining the options, what the ramifications could be, and I really think you took a giant step forward and hope the Commission continues with what they presented. The second thing has to do with LID amendment down the road. It's my understanding that this Commission is considering waiving the requirements for an individual property owner. I support this. If we lived in utopia I would take the opposite position, but when it comes down to nuts and bolts, if you put the residential element in there, the public is going to go for the Town Engineer. This is very similar to what happened when the Inland Wetland Watercourses Act became effective. I was the agent and the enforcement officer. Any time there was a problem, the public came to me, not just looking for guidance; they wanted me to design it, because what I heard was, "why do I have to hire an engineer for a minor thing like this? It is an undue burden, I'm paying your salary!" I tried to do this for a while, and I just got buried, so finally I went to the Town Manager to explain the situation and he concurred, so from that day forward property owners were told that we were there to assist them, but we weren't going to draw up the plans for them. I just wanted to put that on the table up front. I think you should give some consideration to the private sector, they are coming in with plans, they are in there and they are going to make money on this down the road, they understand the regulations, and they are going to do it, so I just wanted to put that in perspective from my experience in a similar situation, I think it is very similar. As far as this Commission, you people pass the regulation, you are going to look at the plans, but as far as the limitation is concerned, it's going to fall on the Town Engineer's shoulders. Thank you.

Rose Lyons, 46 Elton Drive: It was mentioned last night at the Town Council meeting that perhaps Amara wasn't going to get built, and that they were looking for another project up there. I'm wondering if the Town Planner has any information on that. I was looking thru some information on Veteran's Landing, and although I know that they don't have to come to you for approval because it is a Federal project, I'm just wondering if there has been any action on that project. I called CRT, the agency for the project and I did not hear back from them, but that was only today, and I thought perhaps the Town Planner might know something about that project. I was at the meeting the other night about Alumni Road. I found it very informative, but I have to say I have a problem with meetings that the entire town is not part of. Whether this is a special exception I don't know, but there was a lady who said that she only heard about it by word of mouth. This has happened with a couple other sub-committees that have been formed, the Newington Junction study committee and the Housing Needs Study Committee. I don't know how it works so maybe you could give me some clarification about when the public has to be informed and when they don't. It would help everybody. I hope you can go forward with the plans. Thank you very much.

Anthony Claffey, 267 Hampton Court: I haven't been to many of these lately. If you could clarify this packet [the Zoning Regulations review] and how it coincides with these two things so we have a better understanding of what we are going over tonight? It looks like these coincide with each other.

Craig Minor: That's a good question. I take it you are holding up a copy of the draft amendment? From the table outside?

Anthony Claffey: Yes.

Craig Minor: Okay. That thick packet is for Item 6B: Zoning Text Amendment which has a public hearing tonight.

Anthony Claffey: So it is everything in this packet?

Craig Minor: The three of them are separate. The one that says "Auto Related Use", the one page, that is Item VI.A, Petition #07-16.

Chairman Aieta: Did he clarify what you wanted to know?

Anthony Claffey: Yes, the numbers coincide if you look at it closely.

Craig Minor: They are the same numbers, yes, but they are separate.

Anthony Claffey: So something here is rectified in here and changed?

Craig Minor: The two have nothing to do with each other.

Anthony Claffey: That is what I just asked and you said they do.

Craig Minor: What I mean is, something in Section 3.15 is the subject of the first public hearing. The applicants have asked to amend Section 3.15. That is what is being heard tonight. The packet, though, contains many small adjustments to the Zoning Regulations that the Commission has been working on over the past year or so, on their own. There may be some differences between what the Commission is suggesting and what we've been petitioned to do with Section 3.15 by an applicant coming before the Commission.

Anthony Claffey: That is what I wanted to make clear, they do kind of play off of each other.

Craig Minor: It is unclear. Section 3.15 is in play in two different places, so you're right, it is unclear.

Joe Sterling: I'm the store manager for Lowe's on the Berlin Turnpike and I'm here to address the Plaza Azteca request for outdoor seating.

Chairman Aieta: That is under "Public Hearings". They will present their case, and then you will be able to get up and speak, whether you are in favor or against, at that particular time.

Joe Sterling: Is this for the Cinco de Mayo event, or an ongoing summertime event?

Chairman Aieta: Just Cinco de Mayo. Anyone else from the public wishing to speak, come forward, state your name.

## **V. REMARKS BY COMMISSIONERS**

Commissioner Sobieski: A couple of meetings ago there was some question raised about street signage at the CTfastrak bus stations. I had the occasion to go down there and look at them, and none of the signs bear the authority on the bottom of them. Under the Connecticut General Statutes, and I don't know the statute number, but any regulatory sign, whether it be speed, or parking, must bear the authority on the bottom. I.e. the stop sign that control highways are either STC or OSTC. Newington PD signs, Newington controls all of the speed signs. There is no authority on any of those signs up there. I think that is something that the

Planner, or someone, should address with the Town and the State. This way to avoid an issue where someone says, well, how do I know who put those signs up? I think there was a court case in the mid-seventies where someone decided to put up a 25 mile per hour speed limit sign on a town road, which the Police Department enforced, and apparently they learned in court that it was a non-legal sign. So it might be something that you might want to look into.

Chairman Aieta: Mr. Planner, you might want to look into that.

Commissioner Serra: Just piggy-backing off of what Commissioner Sobieski said, I do remember reading this, and I agree, it is something we should look at.

Chairman Aieta: Anyone else?

Craig Minor: I will respond to the question about Amara. I had the same question, so I sent both the Amara couple and the property owner e-mails, and I got nothing back. I have no idea what the status of the project is. As for Veterans Landing: I got call from a newspaper reporter the other day telling me that he had heard that the project has been revived. That was the first I had heard about it coming back. I know that the project has been in the works for many years. CRT made a presentation to TPZ a year or so before I got here, but CRT has not contacted me that they are looking to revive the project. Yes, it is Federal land, but the Federal government doesn't just come in and build a project like that; they coordinate with the Town first, and work out an understanding about responsibilities, just like the other veterans housing project across the hospital from where this will be.

## **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 Place, Hartford, CT, contact.

Chairman Aieta: Does anyone have any objection to our Public Hearing procedures that they want to put on the record at this time? Anyone from the public, or the applicant?

Amy Souchens: I have a question on Petition #07-16. I would like to know if Commissioner Pane intends to sit on the application.

Commissioner Pane: We went over this at the last meeting. I recused myself but I asked the Commission if I could sit here and talk about it. I think I have some good insight on being able to advise the Commissioners on certain things, but because I have tenants that have an automotive business, I am recusing myself from voting. But I was going to participate in the meeting.

Amy Souchens: In that case Mr. Chairman, through you, I have a letter and I ask that Mr. Pane recuse himself from any participation in the regulation. My understanding of the law is that he can either participate entirely if he doesn't believe it has a conflict of interest, or he can entirely recuse himself.

Commissioner Pane: No problem, I will recuse myself, and if I have something to say, I will do it as a member of the public. I have that right, right?

Amy Souchens: My understanding of the law is that if you recuse yourself you are not able to present to the board while you are recused.

eCommissioner Pane: You are telling me that as a citizen, I can't even go up there and talk

Commissioner Pane: You are telling me that as a citizen, I can't even go up there and talk as a citizen?

Amy Souchens: Right, because you are a member of the board. That is my understanding of the law.

Chairman Aieta: We have a different opinion that we got from the Town Attorney about this particular issue and this particular case, the opposite opinion from what you are bringing forward tonight. You are an attorney for whom?

Amy Souchens: I am the attorney for Guggenheim Retail Real Estate SB Newington which is the property owner of the parcel.

Chairman Aieta: I think to move forward, I'll ask Commissioner Pane to recuse himself and not participate in any of this.

Commissioner Pane: Not a problem. Thank you.

Amy Souchens: Thank you.

Chairman Aieta: Is there anyone else that has anything that they want to say about for our procedures before we proceed? Is the applicant here? Come forward, state your name for the record and present your case to the Commission.

Attorney Tim Hollister, Hartford: Representing the applicant, Modern Tire Recapping Company. Let me just say, as a remark as to Commissioner Pane's recusal, I don't think it was necessary because this is a town-wide regulation. As you all know, there was a time when he was involved in an appeal regarding the auto use regulation, but his claims were withdrawn over a year ago, so I think it's overly conservative.

Chairman Aieta: We would rather err on the side of being conservative and not go to court on a technicality.

Attorney Hollister: I'm here with Robert Amenta who is the president of Modern Tire Recapping, and he is going to speak after I do. Mr. Amenta has discussed the auto use regulations with some sixty or so existing businesses along the Berlin Turnpike extensively over the last four years, and while he is not their formally appointed representative, he has taken it upon himself to be their informal representative, so he will speak after I do. We are here to talk about an amendment to Section 3.15, 3.17 and mostly extensively 6.11 of the Zoning Regulations. The original application is dated February 3<sup>rd</sup>, but we are looking tonight at a revision, and I will explain how we got to that revision that is dated March 11, 2016. I have reviewed the procedural compliance, the hearing notice and so forth, and I believe everything is compliant. Maybe the most important thing for me to say to the Commission is that what we are here to do tonight is resolve an issue that has come up in front of this Commission periodically since 1995. This is an effort to put the issue to bed once and for all. I'm going to spend a few minutes on the background because I know that some of you know this intimately, but some of you don't, so it's worth spending a few minutes on background. Prior to 2007, what are called "auto related uses" were allowed by special permit in the B-BT, which is the Berlin Turnpike zone, and the PD, Planned Development zone. In 2007, implementing a recommendation made in 1995 in a Plan of Conservation and Development document, the Commission voted to ban all auto related uses from these two zones, sending them all to the Industrial zone, which made all of the businesses, about sixty of them, non-conforming uses and subject to the limitations that apply to non-conforming uses on repairs, expansion and modification. It's important to understand that at that time none of the existing

auto uses appealed, because they all felt that there was a level playing field. Everybody was in the same boat, everybody was non-conforming in the B-BT and the PD Zones. The trouble, or the issues, started in 2012. I'm going to try to be straight forward and factual and not point any fingers because this is certainly water over the dam here, but at the urging of a private party called Wex-Tuck Realty, which is the owner of the land that is now Firestone which Attorney Souchens now represents, they made amendments to the auto use regulations.

First of all they set up two new categories of uses, one based on what is called the general repair and the general statutes which is one kind of mechanic's license, and the other being a so-called limited repair which is another kind of license. To tell you the truth that didn't make sense then or now, because the licensing is basically the skill set of the mechanics, it's not really a land use role. So that was sort of problem number one. The amendments of 2012 allowed these two categories, by special permit, back in the B-BT and the PD zones with a very long list of very specific, highly particular rules of architecture and building materials and so forth. Then on top of that, there were three prohibitions, three "thou shalt nots". One was, no auto use, entrance or exit within 100 feet of a residence. Number two is no auto use abutting a residential zone, and Number three: no auto use with overhead by doors facing a public street. But the Commission granted itself the authority to waive those prohibitions on a case by case basis. There were also some ambiguities and some drafting issues, for example there was a requirement of setback from a church, as opposed to a religious use and various other things, and there was also a one acre minimum lot size, but that could be expanded to three acres if there was a combination of commercial uses, so unfortunately from the stand point of Modern Tire and many of the other use auto regulations at the end of the day, when this package of amendments was adopted, it looked like there was one property in the whole town that was now a special permit use, and that was the Wex-Tuck property, leaving everyone else non-conforming. So Modern Tire and originally seven other existing auto related uses took an appeal to court saying that you have created a non-level playing field. In January of 2014 a judge actually invalidated four sections of what had been done in 2012 and accordingly said that those sections were void from the beginning, from the time that they were adopted, in fact saying that the voiding had a retroactive effect. That created a problem for the Commission because the prohibitions that I read were left, but the Commission didn't have the ability to waive them, so you had a worse result than what the Commission intended when it started. Just to finish the chronology, in January 2015, the Commission amended what the Court had said was invalid, so the proposal before you is to clean up all of these issues. I believe there was a remark made at an earlier meeting that the applicant has done the work for the Commission and I accept that was our intent. On behalf of Modern Tire I submitted the original proposal on February 3<sup>rd</sup>. Mr. Amenta and I met with Mr. Minor and Attorney Chappell in early March and Mr. Minor made several very good suggestions and tweaks and corrections which are outlined in the April 18<sup>th</sup> memo that Mr. Minor wrote, which I believe you have in your packet. So I think I can say that the March 11<sup>th</sup> document is in front of you is a consensus document of the applicant and the Town Planner and Attorney Chappell with his input.

Just let me take a moment to review the key provisions of the draft that is in front of you. 6.11 is a definition of what the auto related uses are, and basically it takes all of the categories of auto uses that are in the general statutes, everything, and then it subtracts out auto leasing and used car sales, so what you are left with is the general category minus those two. That is a very clear definition and will be easy to enforce going forward. 6.11.1 says that any validly-approved auto related use in the B-BT or PD zone that is in existence on the date of the event, meaning the action that you are hopefully going to take on this application, is deemed a conforming use. So that really clears up this level playing field issue that we have been talking about. It puts everyone on the same footing going forward, and if anyone with a conforming use wants to expand, modify, repair, whatever, they come before

you under the special permit process which of course gives you the ability to impose conditions and control the use. So, it levels the playing field but it also puts this Commission totally back in charge of how these uses will develop. 6.11.2 and 6.11.5 deal with what can be done within a public or private street right of way, which is sort of a buffer provision. 6.11.3 and 6.11.4 are protections for residential zones and residential users that are abutting or near-by an auto related use. Section 6.11.6 was revised at Mr. Minor's request, and it might be redundant but basically it says that the auto uses need to comply with the Town's noise ordinance and the Commission can impose conditions to control the source of the noise. You can't impose a decibel level, but you can say they will not use tools outside of the backyard, or the backdoor of the facility which would create noise. You have the ability to control those types of things. 6.11.7 has been a big bone of contention. What the new provision says is that overhead bay doors, if it is an existing use with a valid zoning approval as of the date of the event, can operate within 200 feet of a residential zone or property that has a residential structure, but they can't increase the number of overhead doors and they must, and this is a new requirement, they have to equip the doors so that only one door can open at a time and only for the purpose of moving cars in and out. That seems to be a workable provision. Lastly we have 6.11.9 with a uniform minimum lot size of one acre, which actually might leave some of the users non-conforming as to the lot size, but you need a regulation that sets a minimum standard for that and going forward any new use would require at least one acre.

That concludes my portion. What we tried to do is clean up the problems from 2007 and 2012 and strike a fair balance so that everybody who was an existing use would be on the same footing going forward. It's been a very good cooperative process between myself, Mr. Amenta, Mr. Minor and Attorney Chapel. I think the proposed amendments, as Mr. Minor has analyzed in his memo, are consistent with the Plan of Conservation and Development and again this should be a win-win for the Town. I expect that you are going to hear from Attorney Souchens about items and I will save that for my rebuttal. I believe Mr. Amenta has a few remarks too.

Chairman Aieta: Mr. Amenta, will you come forward, state your name and address for the record please?

Robert Amenta, property owner at 2455 Berlin Turnpike: I must say that this has been an arduous journey but I'm glad to see after close to four years that the auto use regulations are going to be revised and will provide a level playing field for all of the property owners and automotive operations that are in the same zones. Back in August 2012 the regulations that are currently existing reintroduced automotive uses that had been taken out in 2007, but they did so in a very specific and exclusionary way. It allowed some new uses, but it did nothing to address the needs and concerns of all the existing automotive uses that had been rendered non-conforming in 2007, and those businesses have been operating in town, many of them for years and years and years. With these revised regulations, those non-conforming businesses, many of which, as I said before, have been around for years, can once again be deemed conforming which will allow them to expand, modify, or rehab the facilities to meet the ever-changing market place of today. It will allow us to enjoy the benefits of being conforming property owners and operators. Just a couple comments that I have in regards to specific sections. I did not have the opportunity to speak about it when we met previously. In reviewing them I really want to make sure that these regulations are tight, so they are understood by any applicant and that there are no gray areas. I think that is so important, because of everything that we have been through regarding these regulations. In 6.11.3, I think there should be clarification on a couple of words. Regarding the word "structure", take a look at the 6.11.3. "No repairs or services conducted as part of an auto-related use shall occur within 200 feet of a residential zone or the property line of a lot that contains a structure used as a residential dwelling unless such repairs or services are conducted entirely within

the structure.” I think the word “the” should be changed to “a” because it seems like it is referring back to the residential structure; if that was changed to “a” and the next thing, where it says, “the structure” I would change that to “such structure conforms to the setback requirements for the zone in which it is located”. Repairs or service, and there is an “as” there, I think that could just be removed; it could be a typo or something, within, and again the “the” should be changed to “structure occur at least 30 feet from any public or private right-of-way.” So, three words basically on line four, the word “structure” is in there twice, before the first one I’m thinking that should be an ‘a’ and before the second one again, I think should be “such” and then remove the ‘as’ at the end of the sentence in the second to the last line, and on the second to last line right before structure, put the word “such” I think that just kind of reads a little bit better and again, trying to avoid any gray areas that has occurred in the past in this particular regulation. That’s pretty much all that I have. It’s my hope that these regulations get approved and that we can all go back to operating our businesses as we did formerly.

Chairman Aieta: Okay, the presentation has been made by the applicant. We’ll give the public the opportunity to speak in favor or against the application. Those in favor of the application can get up at this point and address the Commission. Is there anyone here in favor of this application?

Amy Souchens: Thank you Mr. Chairman. I am an attorney with Hurwitz, Sagarin, Slossberg & Knuff with offices in Milford. We are here representing SB Newington LLC which is the property owner of the Firestone facility. I want to provide a handout with our very limited comments on the proposed regulation as provided through the March 11<sup>th</sup> draft. This is a preliminary matter. I know that at last month’s preliminary discussion of the regulations that Commissioner Sobieski asked about the compliance of the Firestone facility with the noise ordinance, and our mitigation plan provided to the court shows that we have complied, and we have not had a single complaint in the eight months that we have been open that arose from the operation of the Firestone facility, so we believe that that has been properly addressed. With respect to the regulation, I want to make clear that we support the concept of the regulation and that we have two relatively minor amendments from our perspective. Mr. Amenta just testified and Attorney Hollister noted that his goal and his testimony in court was his effort in bring the litigation which both our clients and this Commission has been involved in for several year now at this point, was that he wanted the Commission to have all of the property owners with the same type of use in the same, treated fairly and certainly we have no objection to that. We certainly agree that everyone should be treated fairly, and if this regulation is the method by which to do that, we do support that concept.

There is a change in 6.11.1 that is also echoed in 6.11.7, second sentence. There is a change from the original draft submitted with the application and the March 11<sup>th</sup> draft to include “validly approved”. There is absolutely no need for that language, except to maintain litigation against the Commission and my client about the validity of our zoning approval. The original language submitted by Attorney Hollister and Modern Tire application on February 3<sup>rd</sup>, “any auto related use in existence as of the effective date of this regulation” will satisfy everybody’s concern, everybody will be conforming, there will be no need, there is no question. The only way that “validly approved” needs to be in there is so that they can maintain that flavor of litigation. Our revision would be that “validly approved” comes out of both subsection .1 and the second sentence of subsection .7. Also, in subsection .7 Attorney Hollister wanted to clarify that this is intended to be an increase in the number of doors facing a residence or residential zone. I don’t read it that way. The way it reads to me is that any existing facility operating now with doors facing a residence or residential structure, so my request is to change it to include the clause, “facing a structure used as a residence or a residential zone”, would be not only consistent with the terms of the mitigation plan, but also what the court has ordered and authorized. It would make both the regulation and the terms

under which we are operating and approved by the court completely (inaudible). I think this is intended to raise a question as to whether we are operating in compliance with the regulations. There is no reason that it can't be clarified and I would appreciate Attorney Hollister's comments to that effect. Otherwise we have no objection to this and would support the regulations moving forward. We think it brings everyone into conformance. The one thing I would note is that my understanding is that the Town Planner with respect to Section 6.11.1 did have concerns about the initial language that maybe it covers uses and operations that weren't approved by this Commission or the ZBA in the context of a certificate, but I think that could be addressed by previous (inaudible). So with that, if there are any questions about the scope of what I am looking for, I would be happy to answer them.

Chairman Aieta: Thank you very much. Anyone else in favor of this application?

Lauren Dubowsky, 2107 Main Street: I live in the neighborhood of Firestone and we were told if we complained there was nobody that would (inaudible). I hear the trucks backing in to deliver the tires, and I hear their garbage trucks coming out all times of the day, so I am just telling you, we were told, if we were to complain, there was nothing anybody could do about it.

Chairman Aieta: Anyone else in favor of the application?

Elaine Matulis, 267 Beckley Road, Berlin: I am the owner of 2116 Main Street which directly abuts the Firestone property. Basically I am in favor of most of what is written here. I would respectfully request that the "validly approved" language be left in this. The property that was approved abuts right up to the property that I own at 2116 Main Street and personally I am really astounded that this was approved for this type of setting, given the noise level as you know, drills for tires at different times of the day or night. In regards to Section 6.11.3, the particular language that says repairs or service are conducted entirely within the structure. I feel that is really open to interpretation, where somebody could do whatever, cause noise and leave doors open, like at Firestone where the front doors are generally all open. The noise from the doors in the back, my son was working there and he noticed that there was a high noise level relating to the property. It was during the construction phase, but it is an on-going threat that you will hear that drilling noise from tire installation. They are under a lot of scrutiny right now, to make sure that they conform with the standards, but down the road, who knows what is going to happen. Thank you.

Chairman Aieta: Thank you very much. Anyone else in favor of this application? We'll go to the other side of the issue. Anyone in opposition to this amendment or regulation come forward. Anyone in opposition to the text amendment? Seeing none, I will allow the applicant a five minute rebuttal.

Attorney Hollister: Thank you Mr. Chairman.

Chairman Aieta: You got a copy of the letter from the other attorney, so if we could get a clarification...

Attorney Hollister: I guess the overall point is that this amendment is about the sixty existing uses. It's not about Firestone, and I have to object to Attorney Souchens's effort to make it about Firestone and as an aside, not directly relevant to the regulations, but Attorney Souchens took credit for Firestone not causing noise complaints over the eight months that the facility has been open. Well, that is because my clients and I achieved an injunction that required them to install noise attenuation, noise modification, so it's a little like the rooster taking credit for the sunrise. It's been quieter because of what we did, not because of what

they did. I have to say that we, as the applicant, are vehemently opposed to what is really an effort to try to hi-jack this process and solve the blatant zoning violation that Firestone and Guggenheim have been engaged in by building despite not having a valid zoning approval. The words "validly approved" are not in any way, shape or form a minor part of the regulations. It's an effort to do an end run around the court process where I believe it is. If those words come out, it's only going to complicate the court process that is already underway. We have discussions scheduled with Judge Berger in Hartford on Wednesday. You should leave that language alone and let the court system deal with it.

There are important implications that I want to point out to you, and it's really important that you understand this. If you take out the words "validly approved" you are preventing your Zoning Enforcement Officer from doing anything in terms of enforcement of the amended regulations. You are going to invalidate every regulation, the ones that you know about and the ones that you don't know about, because if you take out the words "validly approved", you won't make conforming an existing auto related use, whether it complies with the zoning regulations or not. If there is a building over the property line, bingo, you just made that a conforming use. So there is a very serious town-side implication to taking those two words out of 6.11.1 and 6.11.7 as Attorney Souchens has asked you to do. I have to say, if those words come out, a lot of what we are trying to accomplish here will be out the window. As to the second change that Attorney Souchens proposed, I just don't think it is necessary. If you look at 6.11.7, it refers very clearly to one or more existing overhead door that does not meet this subsection. If they face a public street, or a structure used as a residential dwelling or a residential zone, that is what is covered by the subsection, so we don't need that additional clarification. The point is that the regulation you have it in front of you, and I do think Mr. Amenta's tweaking suggestions are good, but the rest of it is a consensus document that has been worked out over several weeks with your Town Planner, with input from your Town Attorney, and I would ask you to leave that language in there. Thank you.

Chairman Aieta: We will have the other side rebut.

Attorney Souchens: The issue with the clarification that I requested in 6.11.7, "facing a structure used as a residence or a residential zone", if this was altered as necessary, then there is probably no harm in including it. I think it is a clarification to me that it is the side facing the residential structure, I think it is only clarifying, I don't think it has a substantive effect, if he has agreed that this is intended to cover the situation with Firestone. With respect to "validly approved", I disagree. I don't think that would be "approved" in any other section of your regulations. I would be happy to look at any of those provisions if he is aware of them, or if you are aware of them. I think the language is there to (inaudible) their litigation. That is all I have.

Chairman Aieta: Thank you. This ends this portion of the public hearing for this particular petition.

Craig Minor: I just wanted to add something and I don't think it will be controversial. I suggested, when Attorney Hollister submitted this request originally, that it was my sense that the Commission did not want to open up the opportunity for used car dealerships or car rental agencies on the Berlin Turnpike. But since then I have come to understand car rental agencies better and I'm not so sure that my sense of the Commission was correct. They no longer have a sea of cars in the back - it's a "just in time" kind of business now. You call ahead to make a reservation, you show up at the agency and the car is there waiting for you. You bring it back when you are done with it, but it doesn't live there. It lives at some big parking lot up in Windsor Locks, up near the airport. So I suggest that the Commission consider allowing car rental agencies in the B-BT zone and the PD zone, and the only auto

related use that we continue to prohibit in those zones would be the used car dealerships. I'm just throwing it out for the Commission's consideration.

Chairman Aieta: We will consider that when we do our deliberation.

Craig Minor: I wanted to say this during the public hearing so if there was anyone in the audience, either pro or con, that has an issue with what I just said, they should say so now, while the hearing is still open.

Attorney Hollister: I just want to say that what Mr. Minor said was in our original proposal, so we have no problem.

Chairman Aieta: Anyone else from the public wish to comment?

Elaine Matulis, 2116 Main Street: I would much prefer that type of use than the current noise producing type of usage that is being allowed in that situation. Thank you.

Chairman Aieta: Anyone else come forward, state your name for the record.

Anthony Claffey 227 Hampton Court: In regards to car rentals: before you make that statement Mr. Planner, go and look at the rental car lots that we have in Newington. You go to Avis, you go behind there, there has to be 20 to 30 cars at night. You go to Enterprise, they park four or five across the front, and if you go in the back, there are twenty back there so let's review it before we make a statement that they don't store their cars in the parking lots in front of businesses that take up parking spaces. Thank you.

Chairman Aieta: Anyone else? We will be taking this up as part of our discussion. We are leaving this public hearing open. We are not closing the public hearing. At the next meeting we will decide whether to close it, and if so we will have discussion by this Commission.

**B. Petition 06-16: Zoning Test Amendment (Sections 1-4), TPZ applicant/contact.**

Craig Minor: This process started back in the fall of 2014. The Commission decided that it had been a long time since the regulations had been given a tune-up, so to speak. So the Commission decided to go through the regulations, start to finish, and find the places where the regulations were either unclear or maybe weren't achieving its goals, or had become obsolete. There were a couple of cases where the Commission looked to change a few things at my recommendation, such as to delete "special exception" and replace it with "special permit." Under Connecticut land use law there was a difference maybe fifty years ago, but as of today, those two phrases mean exactly the same thing, but when people hear that so-and-so received a special exception, they think that the applicant got a waiver or variance or something, that the rules are being bent for them, an exception is being made for them. It sounds kind of sinister, but it is exactly the same thing as a special permit. Something else is what we call the "waiver provision". Like a lot of towns, the Newington zoning regulations contain a lot of sections where it says that the Commission can waive a certain requirement by a two-thirds vote, such as if the Commission doesn't feel that a sidewalk is necessary in front of a commercial building, by a vote they can waive the sidewalk requirement. Well, we found out through a recent Connecticut Superior Court decision that zoning commissions don't have the authority to do that. Only the Zoning Board of Appeals can waive the regulations. Now, it's not that black and white, because under your special permit regulations you are allowed flexibility, but the regulations have to specifically say where some flexibility is allowed. An outright waiving of something, the Commission really doesn't have that authority. So those changes were made to the regulations. What is the

Chairman's pleasure? Do you want to go through the regulations quickly page by page, on the monitor? There are copies of the amendment on the table in the hall, six or eight copies - did anybody not get one that would like one? Because if everyone that wants one has one, we could go through the pages manually and not try to use the monitor.

Chairman Aieta: I will allow the public an opportunity to come forward, and if they have any questions about what you just talked about, and whether or not they want us to read it. There is not a lot of public here for this particular item. I don't want to take a half an hour to go over things that there is no one here from the public that is interested in. Is anyone here for the zoning text amendment Sections 1-4 that the Commission has brought forward? It's a pretty large packet. A lot of it is boilerplate that the Commission did revisions to, to clarify some of the language, and a good portion of the changes have been generated because of the court case that invalidates this Commission to waive certain requirements of our regulations. Mr. Bachand, if you would like to come forward, we will give you an opportunity talk.

John Bachand: I'm unclear on which ones are "one though four". The big packet here?

Chairman Aieta: Yes.

John Bachand: I just briefly looked at it. Is there going to be another public hearing on this, or is this it?

Craig Minor: It's possible that the Commission will revisit any of these. The Commission specifically did not include the sign regs in this review because the Commission knew that the sign regs were going to require some heavy lifting and deserve some time on their own. I don't think we proposed any changes to the animal regulations, but I haven't looked at this in a couple of weeks. This would be an opportunity for you to talk about the farm regulations if you wanted to.

John Bachand: It seems like this is specifically about farms, which are defined as five acres and up.

Craig Minor: What section are you talking about?

John Bachand: On the first page, Section 3.1.3. That would strictly be farms that are five acres and up. Right?

Craig Minor: Right, and the Commission is not proposing any change to that.

John Bachand: Is not proposing?

Craig Minor: Correct.

John Bachand: To be honest, I haven't looked through this, if it was on the agenda and on line, I should have looked at it before the meeting, but I'm not going to make you go through every page.

Chairman Aieta: It's not that we don't want to, it's that most of the changes, we've gone through this in our workshop sessions where we went page by page by page, and this is a process that we have been going through for over a year.

John Bachand: So all of this has already been discussed? Is the "commercial vehicles" section in there, and all that?

Craig Minor: Specifically, which section are you talking about?

John Bachand: Well, you have a whole section on commercial vehicles, I don't know where it is.

Chairman Aieta: We are only doing Sections One through Four. There are other sections that are being brought forward at a later date. We had to split it up because it is such a humungous task.

John Bachand: Will there be another chance to speak on it?

Chairman Aieta: We'll continue this hearing and we will leave it open, and then close it after the next meeting, so you will have an opportunity to speak on it then. If there is anyone else here, I don't believe there is anyone else, would anyone else like to come forward and ask questions about these regulations that we can answer? I think the other people are here for other issues.

Gail Budrejko, 212 Isabelle Terrace: Were any changes made to the height restrictions?

Craig Minor: No.

Chairman Aieta: We will end this portion now but not close the public hearing; we will put it on for the next agenda to give people an opportunity to review it and then they can speak under their option to be in favor or opposed.

**C. Petition 14-16: Special Exception (Section 3.15.3: Outside Restaurant Seating) at 3260 Berlin Turnpike ("Plaza Azteca Restaurant"), Hector Angel, owner, Manuel Rubio, applicant/contact.**

Chairman Aieta: Is the applicant here? Please come forward, state your name and present your application.

Manual Rubio, Manchester: I'm here for Plaza Azteca Restaurant, 3260 Berlin Turnpike. This is regarding our event that we have every year, Cinco de Mayo, May 5<sup>th</sup>, and we have been doing it every year without any problems. Three years ago we were approved for three years, and every year we kept doing it the way we were doing it. Last year the Fire Marshal received a call saying that there was an issue, so he came to the property. I was there managing the entire structure and how exits were (inaudible), so the Fire Marshal, Mr. Chris Schroeder came and took a look at the property. He didn't see any problems but he said he received a call, and he had to close down the event at 10:00 p.m. The police report was saying that there were no issues, they were simply worried about the over capacity and the safety of the people that were there, including people in cars and trucks on the Berlin Turnpike. The statement from the police officer was they were talking about 900 or so people, from the report, and the Fire Marshal, when we walked through the entire layout he actually was pleased to see that the exits and entrances were cleared and that we had enough space to evacuate people as fast as possible, so it went without any issues. We closed at 10:00. After that, we came to a hearing, and the Commissioners voted that we would have to re-apply and bring submissions and examples from other locations that we have this event every year. This is the only event that we have. For us, it's the biggest day as far as income and to have something better than on the usual days. So what I did first, I met with the Police Chief, Mr. Steven Clark and also with the Fire Marshal, Mr. Chris Schroeder. We had a meeting a couple of months ago, and the main issue and the main problem that the town had in keeping the event, how to make it safer and not having people crossing the Berlin Turnpike and not creating an issue and prevent something from

happening. When we had the meeting Mr. Steven Clark said actually he wouldn't find any issue with having the event again as far as we were required to hire six police officers which we did last year as well. He decided to have them at certain hours, starting from 12:00 and until we close, he was going to, he started with one police officer, then adding two until we reached the six police officers. He said that he didn't have any problem as long as we hired six police officers and also that they were going to ensure the safety of (inaudible) in accordance with Connecticut General Statute 7.2.8.4. The times of the officers would be assigned by Mr. Steven and the police department. Also, one of the things that he mentioned is to patrol the capacity and he stated that the police officers were going to take care of the safety, but we need to hire people to control the number of people that came in and come out. So we came up with a plan of hiring, last year we had sixteen security officers, people working for us, and this year we would have twenty people in the entire building, and also, six traffic controls. Their concern was people crossing the Berlin Turnpike, you know, there is no walk light for people, so we hired six traffic control staff to make sure that the entire Berlin Turnpike, either coming from one side to another, or from the streets in front of us starting from Target covering the entire crossing to prevent any type of issue.

Also, as I said, the Fire Marshal, one of the things that he wanted to do, is to go through the property which he did and made sure the capacity that he would allow and also the terms of how the layout would be. Previously he mentioned last year the space between the road and the grass, it was too short, so the Fire Marshal measured from the patio, from the wall of the patio, all the way to the grass to a maximum of 30 feet wide. So the line that you can see, it's not exactly accurate, but you know it's 30 feet long, the capacity that the Fire Marshal approved. Then all the way around, and he determined with us which exit would be available. As you can see, near to the main entrance, it's about eight to ten feet, exit/entrance, also the main exit/entrance and we have had also one, two, three, four, five, six more exits, and one of the things that he said is to keep the exit door open so how people can get in and out of the building in the easiest way. His measurements, and you guys also have a copy, the measurements he gave us a specific notice for the special event, which shows the bar area, 100 people, maximum capacity; the dining room, 200 maximum capacity; and that actually was even without taking the tables out. One of the things that we do is we take the tables from the dining room out, to give people more space to walk around. In the outdoor area, which is the one that he measured, it is 950 people for a total occupancy that he allows and measured, it is 1250 people which is even more than last year that the police were showing. Both the Police Department and the Fire Marshal, they didn't see a problem with the event again, just to be sure that we covered the main issues that you mentioned last year, and as I said, this year we increased the private security company, the staff also, and the traffic control which we didn't have last year, and also our manager, he spoke with every single manager from the building. We even spoke with our landlord, and she took the time to do her research, and she didn't find any problem and she said I mean, there is no problem, she spoke with the managers, and plus the dining is after seven, eight, which is when we have starting more people, is when they don't have businesses, same as Lowe's. Lowe's usually on the weekdays they close at nine, so it's not a high demand establishment for people to go and buy home goods or stuff at Lowe's. Another thing that we did, and it was mentioned previously, is to have a pre-sale for, to get a better control of how many people we are getting, so we decided to have pre-sale tickets for people 21 and older, to buy their tickets in advance so they can guarantee that they will be in the restaurant without any problems, and obviously we will save those spots for the people that have already purchased their tickets, so with that we have covered even more the issue of the capacity. Also, the once we have the plan with the traffic control stamp, we are working like a concert, they know exactly how to control the traffic and they even let us know, okay, let people know that they can't get into the property unless they can go to Lowe's or they can go to Ruby Tuesday's but the establishment will be closed down, the entrance.

What else, another thing that was mentioned, oh yes, about the tickets. We have one person, right next to the police officer controlling, one clicker, the first clicker is for the people who are coming in, so let's say you have three people in, and you count them, and then three or five people leave, then he counts how many people leave, so we have in real time how many people we have in the inside of the building or in the patio area, so we can manage exactly the amount of people that are inside of the property and we have no issues, and as I said, we have the police officers, they are going to be there, so there is no, there won't be any kind of mis-communication or misunderstanding that happened last year.

Last year we didn't expect the amount of people that we had, and still we managed really good. As I said, there were zero issues, zero problems or any situations that caused a tragedy. It was well controlled, and the Fire Marshal was happy with the entire layout and the exits and how easy it was for people to get in or get out. So having said this, I attached to the record, our other locations and how we do it. We do exactly the same, get the permit from each town, we go to the Fire Marshal, the Police officers, and we also close down the parking in those locations. We use the same process, and in other towns, we don't have the hearings, but we meet with Zoning, the Police officers, and they have never had any problems as well. As I said, none of the restaurants had any problems at all that we can say about it. The main problem last year was the capacity and the officers that were on duty at that time thought it was out of control, and as I mentioned, last year, every thirty minutes I was making sure that the police officers were okay with the capacity, or with their (inaudible) and every time I was going they were saying that everything was fine, until the Fire Marshal got the call, and we had to close down. Other than that, we did not have problems and the issues that happened last year, we are already creating a plan and also in agreement with the Fire Marshal and the Police and that is why we are presenting this to you for your opinion and your consent.

Chairman Aieta: Okay, this is a public hearing, so we are going to allow the public the opportunity to participate. Is there anyone here that wishes to speak in favor of this application? Anyone in favor of this application? Anyone here to speak in opposition?

Joe Stratham, Store Manager for Lowe's: The last two years of Cinco de Mayo partying at Plaza Azteca has been a complete nightmare for our business. They never asked permission, they never came over to tell us what the plans were going to be. The first year they had it, they caught us off guard. When you look at the photo, and you look at the parking capacity of Azteca, when you say that there are 300 people that they are going to have there, it was more like 900 people. Where are 900 people going to park in that little parking spot? When they remove the tables from the dining area, they essentially turn the restaurant into a nightclub. The outdoor party is an outdoor bar, outdoor bands, everybody comes there to party for Cinco de Mayo, which is understandable, however, they don't turn the parking spaces over as they do for a restaurant. A restaurant will turn a parking spot over every hour, a customer comes in, has dinner, and leaves. Everybody was parking in our parking lot, in the Lowe's lot. It completely disrupted our business. The first year they parked along our garden center, blocking our access to products. They had people parking in our loading dock area, behind the building. This year we prevented it by putting up barriers around the store so they couldn't block and shut our business down as far as unloading trucks, however, everybody parked in our parking lot and none of our patrons had any parking spaces available to them. We couldn't police it because there are so many entrances and exits to that large parking lot in front of our building. Everybody was heading over to Plaza Azteca. They did control the crowd as far as the number of people going in and out of the building. The Fire Marshal and Police were there to control that, but what they didn't control were all of the abutting businesses where everybody was parking. So if you are waiting in line to get into Plaza Azteca, where are you going to wait? You are going to wait in Lowe's parking lot, and everybody was bringing alcoholic beverages with them, prior to going

into Plaza Azteca because they are going there to party. Well, Plaza Azteca doesn't have any additional bathrooms so when you have been drinking for three or four hours in May, and have to go to the restroom, and there are 300 people in the restaurant, and there are limited facilities, where do you go? You go to the big box next door. We had intoxicated people stumbling through the store, we had females vomiting in the parking lot, vomiting in the store and in the bathroom which took us hours to clean up, we had men urinating in the parking lot, behind the building, and completely disrupting, and had many customer complaints about intoxicated people in the building during that night, and then the next day, it took three or four hours for us to just clean the parking lot of beer bottles, cups, trash, broken bottles, glass all over the parking lot, and they never provided any sort of clean-up service for any of the abutting, they cleaned up their area, but they didn't touch anything outside of their area, outside of their parking spot. The reason that the police officers were concerned about people crossing the Berlin Turnpike is because our lot filled up and the cars kept coming and coming and coming, so then they started parking across the street in Target and trying to cross the street. Now, you get a woman in high heels that has been drinking trying to cross the Berlin Turnpike at ten o'clock at night, it was a very ugly scene, and I don't know if the other restaurants called, we didn't call, we were trying to manage our business. My assistant managers on that night were just completely over run with patrons from Plaza Azteca trying to get in and out, and trying to serve our customers. Two years in a row, it's been a complete nightmare for anyone adjacent to the area because as I said, they turned it from a nice quiet Mexican restaurant typically we have no problems with them whatsoever, into an out of control nightclub where everybody is there to party as hard as they can for Cinco de Mayo, and unfortunately when the younger crowd leaves with beer bottles, they throw them in the parking lot normally and we have this huge, huge nightmare. To this point, nobody has solicited us, that is why I am here tonight to voice our opinion, our concern because it's going to require a lot of labor on our part additional labor to keep our store staff safe and to provide barriers which concerns me because I am blocking off areas to get to my receiving area that are marked fire zones, so I have to block fire lanes, but if I don't put product there to keep people from parking behind the store, they will block the fire lanes with parked cars because you can see that the parking is not sufficient for them.

Chairman Aieta: Thank you. Anyone else to speak in opposition to this petition?

Anthony Claffey, 237 Hampton Court: I'm in opposition to this because of what the gentleman stated. The other businesses have the right to work and have access to their parking. As a person in this town, I don't know if you guys are seeing the calculations, but I would love to see the calculations on the amount of people that can stand on that front lawn because I would love to see 1,000 people there. I don't think it would hold 1,000 in that front little grassy area. Second, pertaining to the way that it is written on the agenda, "outside restaurant seating", is that for just this night? The way it is written, if you approve it, it's open to interpretation that it is not just for just one night. That's my concern. Thank you.

Chairman Aieta: Anyone else in opposition to this application? I'll have the applicant, you have an opportunity to address some of the questions from the opposition to your application.

Manuel Rubio: The manager wants to say something to these points. As far as the bathrooms, we have rented ten bathrooms outside in the lawn area for people to use. Last year we had six of them, and this year we are going to have ten because we saw the high demand. This event is only once a year. It's not like we do it all the time. And as for security in the parking lot for Lowe's, we are definitely going to hire extra security just for the parking lot, and make sure that they don't pass certain areas. As he mentioned, you know when somebody is going to buy something at Lowe's and when somebody is going to the restaurant. So we can ensure that we will hire extra security, as many as possible, to make

sure that Lowe's parking lot and Lowe's area have access, we can supply extra security and extra personnel for them so they don't have to worry about it.

Chairman Aieta: Let me ask you a question. What is the parking capacity on your piece of property that you control? Do you have an idea? The ones on your property, not on Lowe's, not the ones on Ruby Tuesdays, the ones that are under your lease or your property line. I'm not sure of the arrangements.

Manual Rubio: I don't know, and I don't have that information with me.

Chairman Aieta: Because you can't use other people's parking for, to calculate how many people you can put into your restaurant. That's the problem we have with the occupancy, the way that the occupancy based on the Fire Marshal's requirements are different than the requirements for zoning, and the two don't mesh. The Fire Marshal says you can have 1200 people, that might be all well and good because there is enough space for them, but in reality, there is not enough parking for these people to get there and be able to park. You can't count somebody else's property as parking for your event. Specifically even if you have not had communications with them. I don't know the split up of, how that property is split up, who the owners are, if Lowe's owns the whole thing, and they sublease to you, if you own portions of that property, I believe that your portion of the property is a separate piece than the piece that Lowe's is on.

Manual Rubio: We lease...

Chairman Aieta: I'm going to let the gentleman from Lowe's speak. Maybe he can shed some light on this.

Joe Stratham: That parking lot, the entrance that comes in, what you saw in that picture, is assigned to them. Everything else is under Lowe's property site map. We are the ones that take care of it, fill pot holes, striping, snow plowing, all of the side of the garden center and all of that is our parking. Their parking is from where you pull into the road, take a right and you enter through that little median strip; that is their assigned parking. The rest of the property is Lowe's property.

Chairman Aieta: Is the ownership all under Lowe's? Who owns the property?

Joe Stratham: We lease the property, but we are responsible for maintaining that whole area.

Chairman Aieta: Okay, I'm trying to find out if it is one owner that owns the whole plaza.

Manual Rubio: The property owner is Clemmens Property LLC, and even yesterday she went to the restaurant to review everything and she never mentioned that the people at Lowe's were having, she never received any complaints.

Chairman Aieta: Maybe the applicant should have been the owner of the property and not the restaurant. We're getting into conflicting problems here with that one particular item, parking, which is major, and then you have a tenant there and it is obvious that he controls most of the parking because of the size of his business, and he is upset, and he's not happy with your operation.

Chairman Aieta: I'll open it up to the Commissioners, if they have any questions.

Manual Rubio: The manager would like to speak to this.

Juan \_\_\_\_\_: I'm the manager of the Newington location. The picture that was shown, the map that was shown, we have an agreement with IHOP where in the morning they take most of our parking lot, at night, when the restaurant is really busy, we use their parking lot, so that is an agreement that we have, and we have never had any problems. Every time a person goes out in this type of event, security, they have to make sure that no one has any bottles or any type of container. They can never take anything out of the restaurant. Again, by the time that we start getting busy, is about the time that Lowe's is about to close. Again, we will be happy to work with the manager and see how we can prevent affecting his business. Two or three weeks ago I went to Lowe's, and I talked to the manager that was there, I don't know if he was new or something, and we told him, and he was like whatever you need, let me know, I did talk to every single manager at the shopping center. Again, we have a very good relationship with IHOP, we have agreements, and that map, is not the whole parking lot, just one half. There is another, just as big as our half which we use, they know, and we have an agreement. They use our parking on Sunday morning, which is no problem because we are not that busy, so at night, when they pretty much don't have business, we use the extra space. Also, we are trying to close a deal with Uber and Lyft to prevent people who have been drinking and drive, and also to prevent that many cars in our property. So I am going to try to work on this, sometimes people just go to Lowe's, we don't want to do that, we want to work with whatever they need and we are also trying to keep our customers safe, like Uber and this company called Lyft. So, we don't want a lot of people in our parking space, we would like our customers to you know, aid in our business, and for me, as manager we want the people to come back, so we want the people to come back, so we want the people to be safe, and if there is a better way to do it, we will, just to keep our customers safe. We are a service company, so I want them back, and I want them to be safe.

Chairman Aieta: Okay. I'll open it up for Commissioner Remarks now.

Commissioner Serra: I think most of us have a lot more questions than answers tonight. One thing I would like to see, I mean, we just heard from Lowe's tonight, Ruby Tuesdays was mentioned, Outback was mentioned, IHOP was mentioned, these other places, I would like to see a letter from each one of those businesses stating that they are okay with this, that they had permission to use their parking, if that is the case.

I'm looking at the map where they are showing security and from what I understand, if people are parking across the Berlin Turnpike, they are going to have private security crossing these people. Taking a page from Commissioner Sobieski, that is a state controlled highway. You cannot have a private company crossing people across a state highway. There should be nobody crossing the Berlin Turnpike under any circumstances.

Chairman Aieta: On the first point, I would like to see permission from Target that they could park over there.

Commissioner Serra: Right. I was going to bring that up too. The manager from Lowe's brought up the bathroom issues. Plaza Azteca is saying that they are going to bring in ten porta-potties. So now, that limited space that they have, they are going to have ten porta-potties. So every porta-pottie, how many people do you minus for those? You know what I mean? That's a whole other space that has been taken out where they were going to put more people in. I think they really need, and as you said, they are already selling tickets, they are advertising this, without the okay from us, I think there is a lot more planning that needs to go into this, and I don't see this happening in time, I really don't. Again, I think we have more questions than answers, we have people, especially after the party being intoxicated, crossing streets, and with all due respect Mr. Rubio you did mention that, I'm sorry, it was actually the manager, said that you are very careful about people coming out

and leaving with bottles and drinks. All you have is a yellow tape here, your staff cannot be everywhere. So somebody is on the other side of that line, with the amount of people there, it's going to be very easy to pass something over that line. I mean, we can't control everything, I understand that. Some things will slip through the cracks.

The other concern I have is the letter from the Police Department. They are going to supply five officers, but they are there for crowd control only. They are not checking ID's, they are not doing traffic control, I mean, what...

Chairman Aieta: I saw that letter too, Bob, and we all got a copy of the letter from the Chief. I would have thought that there would have been more involvement by the Police Department, particularly on traffic control, besides their private duty stuff. But I'm not going to second guess our chief, he must be doing it for a reason.

Commissioner Serra: Well at this point, I'm going to stop because I know some other Commissioners was to bring up some points and I don't want to be the only one.

Commissioner Sobieski: I don't know if the Planner has looked to see if this yellow tape is in the right of way of the DOT or not?

Craig Minor: No.

Commissioner Sobieski: So you don't know if that is on the right of way, inside the right of way, outside the right of way?

Craig Minor: Yes.

Commissioner Sobieski: I strongly suggest before any other acts are done on this that we find out where the DOT right of way is. I remember going up there a couple of years ago and seeing a yellow fence tied between the telephone poles, so that is well within the DOT right of way, and just so everybody is clear, you are not supposed to be putting anything within the DOT or the town right of way. It's there for a reason. Safety is your number one priority. As Commissioner Serra said also, the last time I looked you had a yellow snow fence around there. That doesn't stop somebody from being on the other side of that snow fence and passing bottles back and forth. So I'm a little concerned with that point. You are going to have an outside bar here, and if you are going to have three, four, five hundred people at a clip there, is this bartender going to be able to check the ID's? I'm not trying to give you a hard time, I'm just asking questions, because I know if you go to any other establishment and there is any question, they give you an arm band. So, my question is, what do you have to have that safety from kids drinking. I don't mean to harp on what Commissioner Serra said, but I'm going to say one thing that I understand where the person from Lowe's is coming from. He has to spend time, money and manpower to go out and clean up the parking lot after your party all the time. It would behoove you, I would think, to talk to them and to try to cover any expense that they have there. You want to try to be good neighbors, you are all within the same block, but I think you should have cleared it with the owners of all of these restaurants and these businesses up there. It's not good policy and it's not good neighbor police to just go in and do what you want to do. I think Lowe's has a point, I'm sure Ruby Tuesday's would have a point, so would Outback, and the rest of them. As far as crossing the state highway, you are not going to have private control running this STC traffic control signal, I can tell you that right now. It's either going to be the Town of Newington or the State Police. Those are my issues, and again, I'm going back ten, fifteen, maybe twenty years ago, there were two people killed on that highway crossing for parties like that, that's a fifty mile per hour zone out there, we're not dealing with twenty-five or thirty. If it's posted at that, you can bet your bottom dollar that they are doing sixty. Trying to jam on a brake and trying to

stop when somebody is crossing the turnpike, it's an accident looking for a place to happen. Thank you.

Commissioner Pane: My fellow Commissioners brought up quite a few of the comments that I had, but I will say that the applicant stated that the capacity is going to be greater this year than last year. That is an area of concern to me since there were so many problems last year. Also, he made it sound like there were no problems last year, and if there wasn't, then it wouldn't have been shut down. The thing that I have that is most disturbing is that they pre-advertised for this event, without even having permission to go ahead with this. You have coupons in the newspapers advertising this all day event, live music, giveaways, kids area, you are advertising it on the Internet, you are advertising it on Facebook, and I have a serious problem with that, because if that is not approved, you are going to have a lot of people coming there without knowing that you have an event going on. You also, I think this application was very unfair to the Town Planner and this Commission because you didn't give us proper time to get all the answers for everything. You knew that you didn't have permission for this, a long time ago. You should have been in months ago so that if there were letters that we had to get, from abutting properties, you would have had time to get the letters from the abutting properties. If there was information that we had to get from the Fire Marshal or the Police Department, we would have time to get that information. You have done an injustice to us, and to you by putting us on the spot by not giving us the proper amount of time to vet the whole thing and get the proper information, so unfortunately due to that, I don't, I can't favorably agree with giving this out, as far as I am concerned. I wish we had more time so that we could have our questions answered. It's obvious from your statements that the capacity is larger this year, that the Fire Marshal granted you then last year, and we had serious problems last year, so it would be evident to me that the capacity is too large for the space that is there that you use for parking and building, and so on to meet the surrounding neighborhood too so that there are not any safety problems. I think the capacity, you are asking for too large a capacity, number one, and number two, you didn't give us enough time to get all our questions answered. Thank you.

Commissioner Miner: Just a couple of remarks. The biggest concern that I have got is the parking. Just doing quick numbers, doing combined parking for Plaza Azteca and IHOP even going into what potentially could be theirs, on the east side of it, will probably accommodate only a hundred cars at best, so if that is the case, you have 1200 patrons there, potentially at one time, you have no parking for them. Unless they were able to show an agreement in place allowing for parking, or come up with an alternative parking schedule, similar to what the church had to do for their events and shuttling, I just can't in good conscience agree to it. My other concern is, we were talking about a head count in and out, at the entrance and exit, going onto the property, well that's wonderful. But, that is outside. My bigger concern is inside. Are they doing a head count, how many in and out of the building because 300 people in the building is going to be tight. If no one is watching, 300 is going to quickly consume that. That's my greater concern than the outside. That's all I've got.

Chairman Aieta: Any other Commissioner remarks?

Commissioner Strong: I agree with all of the comments made by the Commissioners.

Chairman Aieta: The normal procedure on this, the permit that you had we revoked back several months. There has been talk about you coming back in but happens to put us to the point where you expect us to hear it tonight, public hearing, and our procedures are normally that we don't act on public hearing items the same night, unless it's a very uncomplicated, very easy type of a situation, and there are overwhelming circumstances where it would be prudent to the town to go ahead and allow us to do that. At this point, with this kind of an

application to expect this Commission to hear it tonight, and act on it tonight, you are really pressing the envelope with this Commission particularly with all of the problems. For me, which is one of the most disturbing items is having the manager from Lowe's come here and express his discontent with the operation over the last couple of years. Lowe's is a major tenant in that plaza, it's not fair to him, it's not fair to his business that he should suffer, that he should have to, because you are having an event, that he should have to go and clean up after you, that his parking area for his patrons and his customers have to suffer because you don't have enough parking to hold an event of this magnitude on your property. This does not preclude you from opening and running your business as you normally do or even having an operation contained within the inside of your building. What we are saying is that it sounds to me like this Commission is not looking forward to letting you proceed with this outside activity that you presented to us tonight. At this point, what would be the procedure?

Craig Minor: After everyone who wishes to speak has done so, close the hearing and move it to Old Business and act on it tonight. Ask if anyone else has any last words before we close the hearing.

Chairman Aieta: Anyone else have any comments, particularly on the opposition side?

Joe Stratham: Just one comment. We are open until ten o'clock at night, and we are busy during daylight saving time it's light until eight, nine o'clock. We are busy right up until we close at ten o'clock, and we are there an hour after closing and we had people banging on the door an hour after we closed, trying to get in to use the restrooms. It is an ongoing problem, it's not just that our business closes down at five o'clock and their business starts up. We are in business the same amount of hours that they are.

Commissioner Serra: I don't know if this is something that we have control over, if this petition does not pass, the advertising for this event, on this scale is to stop. I don't know if we have any control over that, but as you said, or as one of the Commissioners said, with this advertising going on, people are still going to show up in droves. We're still going to have an issue.

Chairman Aieta: If we act on this tonight, and deny it, they are not going to have the same outdoor activities going on. They could have their normal business that they do inside the building. Maybe it is busier than normal, but there are not going to be thousands of people there. We will put the Fire Department and the Police Department on notice of our actions, and we will have it monitored by the Town.

Juan: Like any event we can have inside of our building, we could be over capacity, that is why are advertising. We are advertising like VIP for people who are going to be on the patio where I have a permit.

Chairman Aieta: We're not telling you you can't...

Juan: No, I just wanted to answer his questions. The other thing is, we don't want any of our customers to park at Lowe's. That is why we are working with Uber and Lyft. Some people like we can get a discount for big parties from whatever they are charging. Some people will come, have a good time, and they will leave. We don't want to affect in any way someone's business. We don't want people crossing, we want to prevent anything from happening. We don't want them parking in Target or Lowe's. Most of the people who go to our restaurants, they don't take one car. Every single person who is drinking and driving, you know the Berlin Turnpike has a lot of police officers. They don't like driving. It is not going to be like last year. This year we are trying to fix everything that was done wrong in the past. People, anyone

trying to, we cut, we cut the space on the patio. It possibly has to do with the Fire Marshal's count. He spent a lot of time (inaudible), and we have security...

Chairman Aieta: We are not going to debate the amount of capacity on the inside of the building. Whatever the Fire Marshal has approved for the inside of that building you can have, but we are telling you that we are not going to allow the outside venue, we're not going to allow it because you don't have the parking to do it.

Juan: We tried to prevent that traffic. I talked to Lowe's and our busiest part is going to be after ten. We are going to be open until 12:30, when our business is busy. We know that we are going to have a lot of people, so we are trying to prevent anything from going wrong.

Commissioner Pane moved to the close the public hearing. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion, with six voting YEA.

Commissioner Pane moved that Petition 14-16 be moved to Old Business. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion, with six voting YEA.

Chairman Aieta: We will move that item to Old Business for action tonight. That ends the public hearing portion of the meeting.

**VII. APPROVAL OF MINUTES**

A. Regular Meeting on April 13, 2016

Removed from Agenda

**VIII. NEW BUSINESS**

**A. Petition 15-16: TPZ Approval (Section 3.23.1: Accessory Outside Use for Fireworks Tent Sale at 2985 Berlin Turnpike ("Turnpike Plaza") TNT Fireworks, applicant, Brixmore Property Group owner, Tatiana DeJesus, 46 Douglas Avenue, Yonkers NY, contact.**

Tatiana De Jesus, 46 Douglas Avenue, Yonkers, NY: We are here to request permission to erect a tent in the parking lot of 2985 Berlin Turnpike, the same exact spot where we have been for years.

Chairman Aieta: You said the exact same spot. Do we have an actual layout? Because last year we changed you from where you wanted to be to the northern portion of the site. So you are going to the northern portion of the site.

Tatiana DeJesus: Right.

Chairman Aieta: That is closest to Louis Street?

Tatiana DeJesus: Correct. We are looking to be there for about two weeks leading up to the Fourth of July, from the end of June for the sale of Connecticut controlled fire works.

Chairman Aieta: When do you start? Two weeks before the 4<sup>th</sup>?

Tatiana DeJesus: We are looking to have tents delivered between the 16<sup>th</sup> and the 20<sup>th</sup> of June, and our sales will start between the 20<sup>th</sup> and 22<sup>nd</sup>, through to the 4<sup>th</sup> of July. On the 5<sup>th</sup> they will begin removing tents, through the 8<sup>th</sup>.

Chairman Aieta: Any Commissioner remarks? We saw this last year. I'll ask the Planner if we had any problems with anything, any complaints.

Craig Minor: Actually, it was two years ago, they didn't come in last year. If there had been any problems with this I would have heard.

Chairman Aieta: I don't think there were any problems, particularly when we moved it to that location. I think it worked out pretty well.

Commissioner Serra: From what I remember, we have had no issues at all with this. If there were, I'm sure we would have heard about it, so I have no problem with this applicant.

Commissioner Sobieski: They know that they are not to put any signs on the Berlin Turnpike?

Craig Minor: In their application packet they show signage just on the tent.

Chairman Aieta: Just be sure that you don't do any advertising off site, or around the perimeter, any of that, because if you do, the next time that you come in for a permit, you won't get one.

Tatiana DeJesus: Okay.

Chairman Aieta: We are very strict on signage, particularly on the Berlin Turnpike and littering other people's property. We have a problem with temporary signs in Newington, so if you adhere to that...

Tatiana DeJesus: We will stick to the signs that are outlined here in the packet, just hanging off of the tent walls.

Chairman Aieta: That's fine. We have enough time to put this under Old Business for the next meeting which would be May 11<sup>th</sup>, the second meeting in May.

Commissioner Sobieski moved to close Petition 15-16 and move it to Old Business for the May 11<sup>th</sup> meeting. The motion was seconded by Commissioner Strong. The vote was unanimously in favor of the motion, with six voting YEA.

#### **B. Alumni Road Traffic Signal Committee**

Commissioner Sobieski: We had a meeting last Monday. We asked several neighbors to come in to see if they had any issues with the proposed plan. The meeting went very well. We discussed some issues, and they had concerns. We explained that this is most of what was going to be with the old DOT plan, with several modifications to it. They seemed very pleased. I'm sure Commissioner Pane got some positive feedback also. I did from that meeting. After the meeting we talked about some other issues that they had, not related to this area here, speeding controls, stuff like that. Again, this is not a party issue. It's a safety issue, and as far as I'm concerned, the quicker we get this moving, the better off we are. You are playing Russian roulette here, because sooner or later somebody is going to get killed out there. It's a bad intersection with a high volume of traffic, and the sooner we get this resolved

the better off we are going to be. This should, once Alumni Road is open, relieve some of the congestion from the high school.

Commissioner Pane: That meeting went extremely well. We didn't want it open to the public, but we had about fourteen people from the surrounding area. I don't think any other informal meetings are necessary. I think we have gathered plenty of information so we'd like, at our next meeting, May 11<sup>th</sup>, to present the plan to this body to see what they think. There was some concern at the Council level whether this was out of our purview. I would like to state that Section 1.1.1 of the zoning regulations says "to promote and to protect the public health, safety and welfare of the inhabitants of Newington Connecticut and of the public generally." Like Stan said, this is strictly for safety. I remember when my kids were in high school we told them not to go down Alumni Road. Go out towards Willard, and that was twenty-five years ago. It's worse now. We are taking such a chance of somebody getting killed at that intersection, and Stan and I said that we're not going to do that any longer. We're going to try to move this forward and try to get this up to the Town Council so that they will look at this and hopefully move forward. Also, I was looking through the 2020 Plan and on page 44, under "Transportation", "Roadways – Generally": "Ensure that potentially hazardous roadway conditions are corrected with as little as possible impact to property outside of the road right of way." That was our big concern on this; to make sure that the residents' properties were not taken in any way. Also on page 46, Number 9: "Reconsider the realignment of Maple Hill-Cedar Street-Alumni Road intersection and the realignment of Alumni Road near the athletic field parking area." This has been a long standing problem in the town. I think that Stanley has come up with a fantastic plan. We've tweaked it a little bit, and we've gotten plenty of input from, not all the residents, but quite a few of the residents. Now we are ready to propose this plan to our fellow Commissioners. Hopefully you will like the plan so that we can have a public hearing. If everything goes well at that public hearing, what I recommend is that we make a presentation to the Town Council. I would advise them to do all of their due diligence, have their own public hearing, and if everything goes well, they might want to hire a traffic consultant to create a plan, because we are just doing this off of old plans; we did not want to spend any town taxpayers' money until we got it through the residents and up to the Council level. If the Council feels that this is something that they like, then the only thing that they will need to do is spend about three to five thousand dollars on a traffic consultant to create the plan so it can be given to the DOT.

Commissioner Sobieski: We should try to get this done as soon as possible, because DOT is working on the I-84 viaduct in Hartford, which means people are going to be getting off the east/west connection to by-pass Hartford. Right now you are handling 34,500 vehicles per day on Cedar Street; that can potentially increase quite a bit.

Chairman Aieta: So we are going to move it tonight to our next meeting.

Commissioner Pane: We will move it to May 11<sup>th</sup>, and we will present it to the Commission.

Chairman Aieta: The next step would be to get a full presentation from the subcommittee and then we will proceed the way that the subcommittee has outlined. I will tell you this, I would not have set up a subcommittee if I didn't know that we have the authority. We do have the authority to do these types of safety issues. It definitely falls under zoning, under our purview; I mean, where else would it go? I think they are doing a good job, I think this is something that is really needed for this particular area. I'm glad that Stanley took the bull by the horns and resurrected these old plans, did some leg work and got together with Domenic and pushed this forward. This is something that has been going on for twenty, over twenty-five years, and the situation is getting worse. We will have the Planner put this on the next agenda under New Business for a presentation to this Commission.

**C. Food Truck Approval Process**

Chairman Aieta: I know that we sent all of the stuff up to the Chief of Police, and I believe he gave it to Lieutenant Miano.

Commissioner Pane: They were waiting for comments, and it hasn't come back yet. We can leave it on the agenda for the next meeting. We forwarded a copy of the Town of Berlin's application to Chief Clark and he has requested (inaudible)

Commissioner Miner: This has been modified. It used to be a single page, now it's double.

Commissioner Serra: I would like the form to be as we turned in. I know that we said "if you want to make some modifications", and I guess this is better than what they were using, but I guess at this point maybe we need to wait and see what they come back with.

Chairman Aieta: This is what they sent back. This is the final version.

Craig Minor: Well, the Chief sent it back with a cover letter saying that if the Commission wants more changes he is willing to consider them.

Commissioner Serra: Well, I'd like to know what the rest of the Commissioners think. Maybe the form that I brought over from Berlin was overkill for what Newington needs, I don't know.

Chairman Aieta: Apparently, because if I was the Chief and I wanted to use that form, I would just say, "copy this form".

Commissioner Serra: So at this point, I don't know if we are beating a dead horse or what. If this is what they want, this is what we get, I'm fine with it.

Chairman Aieta: The Zoning Enforcement Officer has to sign off on these, which is better than what we had before. I think we just have to ask the Zoning Enforcement Officer to keep us in the loop on anything that happens that pertains to vendors' licenses. If someone comes in, we want to know about him, who it is. That should cover it if the Zoning Enforcement Officer is on top of it.

Commissioner Serra: And it does have the location on here.

Commissioner Miner: They added quite a bit to it.

Commissioner Bottalico: Do we have a Health Department sign off on this?

Craig Minor: Bringing in the Health Department to the application form would be bringing in an agency that currently is not involved in approving vendors' licenses.

Chairman Aieta: The vendors, if they are doing food type things, have to get a Health Department permit.

Commissioner Serra: Do they have to show that they have that health department license before they can get this police permit?

Craig Minor: They are independent. They need Mom's permission and Dad's permission, but Mom and Dad don't have to talk about it.

Commissioner Serra: So we have no idea if they have one, but they can come in and get a permit?

Chairman Aieta: Well, it's a little more complicated than that. You would have to have certificates, you would have to have a license...

Commissioner Serra: That's what I just asked, does the PD look for that before they issue this and the answer was "no".

Commissioner Bottalico: There is no cross reference.

Commissioner Serra: And that was what we liked on the other form, they had a cross reference.

Craig Minor: I don't think they did. I think one of the big differences between Newington and Berlin is...

Commissioner Pane: The Health permit has to be displayed at their place of business.

Commissioner Serra: I understand that, but my question, maybe I'm not stating it...

Commissioner Pane: No, you stated it correctly, you wanted to see a check off on...

Chairman Aieta: If someone comes in, and they didn't get a health permit, and they go to the Police Department, they could get it approved. They are not going to check to see if they want to the Health Department. Now we will have our representative checking this yes or no.

Commissioner Pane: The Zoning official can check that...

Craig Minor: He already does a lot during the day that is technically not in his job description, so he could do that too.

Commissioner Serra: While he is out checking signs and everything?

Commissioner Pane: I don't think it is in the Police Department's purview either since we have a Health District.

Chairman Aieta: This is the last time. Send it back and tell him that we want to have the Health District checked off.

Craig Minor: Okay.

Chairman Aieta: We're not giving any more work to our person, we're giving it to the Police Department. This is their form.

#### D. Backyard Chickens Zoning Regulations

Chairman Aieta: What is the pleasure of the Commission? Do you want to have a discussion tonight about the chickens?

Commissioner Sobieski: I think I asked you in an e-mail to ask Farmington, Avon what their minimum lot sizes were for chickens.

Craig Minor: I didn't do that.

Commissioner Sobieski: I also asked about the animal control officer in town, what complaints if any, on additional wild life issues that they might have had? Farmington had an R20 and an R40 Zone if my memory serves me correctly and I just wanted to know, A, what the difference is, and B, the lot sizes.

Chairman Aieta: R-20 is a twenty thousand square foot lot and R-40 is a forty thousand square foot lot.

Commissioner Sobieski: then I wanted to know if there were additional complaints about wild life that might be related to that. That's what I had asked for.

Commissioner Serra: I was reading the letter from Officer Monde, the animal control officer as far as the animals and complaints, I'm not going to read the whole letter, but she does mention that they get several calls, they get called out where chickens have been killed and that is how they find out that they have them, but she doesn't give any kind of numbers, just a rough idea. How much extra work does this give them? Are we talking 20 calls a month, 40 calls, just an idea of a number if we can get that from them. As I said at the last meeting, I would like to give this a fair shake, let's look at everything, the good with the bad, and I wondered if we needed any input from the Health District on this, would it help to get some input from them?

Craig Minor: If this goes to a hearing we should have all of the information. I think we are doing an awful lot of information-gathering now that we ought to do after you decide to prepare an amendment for public consideration.

Commissioner Serra: Well, I think this might help us come to that decision.

Craig Minor: It would just be anecdotal. We're putting more work into the pre-hearing than we will on the hearing. Let's just go to a hearing. Let's get all the information on the record. We could keep doing this every week. We could think of one more thing that we should ask for. Let's have a public hearing and get it all out there.

Commissioner Bottalico: Mr. Chairman, about foxes attacking chickens and whatever. This lady has a chicken coop that's completely enclosed, right? So how are these foxes going to get at the chickens?

Commissioner Pane: They tunnel under.

Commissioner Serra: They also can climb the fence, come down, wipe out the pen, and climb back over the fence with chickens in their mouth.

Commissioner Bottalico: What do you do in a situation at Easter time where these parents buy their kids ducks? I mean, when I was a kid, I had ducks all over the place. No one ever complained. No pen either, they just walked around the yard.

Chairman Aieta: That was pre-zoning.

Commissioner Bottalico: Aren't we opening ourselves up to all that kind of stuff, like the Easter chickens and the Easter ducks that they buy the kids.

Chairman Aieta: We are specifically looking at chickens, where they are almost like pets. The limitations would probably be up to five or six. We would have to consider lot size, location, the smell, the annoyance to the neighbors, there is a litany of things that we would have to consider. The biggest one would be lot size. Like I said before, there are many small

lots in this town, so we just can't blanketly say, "you can have chickens". We would have a big problem because there are lots that are 50 x 100 that have houses on them, and that is kind of close. The other thing is, what is the process of getting rid of manure? You can't just spread it on the garden, you have to let chicken manure sit for six months to a year before you could even spread it out, it's so potent. There are so many issues here that I think the Planner is right. We can't keep asking questions and have him every week answer one question and then we come back, well, what about this, I mean that is not a good way to do zoning. If you want to move forward with this, then we have to come up with this regulation. I was hoping that some resident would do like the auto guys did, and do the work for us. This is going to be, unless we take an existing regulation from some other town that would be massaged to conform to Newington. We're trying to recreate the wheel here.

Commissioner Pane: It was very interesting, Farmington, has them come in and tell them how they were going to handle the waste, distance from other properties, and also give an opportunity for the public to come in, neighbors, so that you could hear from them, so I think the Farmington one was pretty good. It also stated that after a couple of years, a lot of people got tired of maintaining them, and it wasn't worth the amount of eggs, so they got rid of them; it was a novelty, or the kids didn't want to pick up after them anymore. You will have a few, but I don't think you are going to have a massive amount. I definitely agree that we need to probably limit this to at least R-20 lots, which is our largest lots. I can't see it being on any of the smaller lots. I believe the Chairman and the Town Planner are correct. Maybe when, in a few weeks when we have a little less on our agenda we can put this up for a public hearing, but right now we have so much on our agenda for the next few weeks, at least for the next two or three meetings, I would say, maybe three meeting away, whenever the Planner feels that we can put it on the agenda.

Chairman Aieta: Why don't you put it off for a couple of meetings? Don't lose track of it, we don't want this to just die. Let's take it off for at least the next meeting, and then the one after that, put it on under New Business, in the same place that you have been putting it right along and then we will discuss it again, and maybe we can come up with, maybe in the meantime you and I can look at that Farmington regulation and maybe use that as a basis and bring that to the Commission.

Craig Minor: Right, we could do it like a Chinese menu, pick and choose from what other towns do.

#### **E. "Low Impact Development" Zoning Regulations**

Craig Minor: This is another regulation change that we have been kicking around for quite a while. We want to make it more user friendly, more staff friendly, but also more environmental friendly, so there are these three conflicting, competing factors that we are trying to address in a regulation that makes sense. What I suggest is, number one, we amend the LID regulations to completely exclude single family homes. I think that everyone agrees with that. Change number two: under the current regulations, and I wasn't clear about this last month, so I may have mis-spoke, when a hypothetical big box store gets torn down and rebuilt in exactly the same footprint, under the current LID regulations that has to go through the laborious process of understanding our regulations and either asking for relief or proposing some amount of LID. I agree with Commissioner Pane, we don't want to discourage the revitalization of commercial sites by making it more expansive, so I am suggesting that any redevelopment of a parcel less than four acres in size shall be exempt from the LID. Why four acres? I took a zoning map of the Berlin Turnpike and obviously there are all different sizes of lots on the Berlin Turnpike, but I would estimate that less than a quarter of them are more than four acres in size. So, LID would apply to only the larger ones under what I am suggesting now. I don't have a map for you because we didn't have a GIS

person until a couple of days ago, but now we do, so I will be able to ask him to generate a map that shows the parcels along the Berlin Turnpike that are four acres or greater and that will show what I expect, which is that we're setting the bar pretty high. We will capture the big ones but we are not going to capture every little one when it comes time to be redeveloped. So if that concept seems acceptable to the Commission, we can set it for public hearing at the next available meeting.

Chairman Aieta: I think we had better move this forward. We have played with it enough. I think we have it to the point where we're accomplishing what we set out to accomplish and this will relieve some of the tension off of the town staff, in designing systems for home owners. Let's move it forward.

Craig Minor: I have to send this to the regional planning agency 30 days before the hearing, so the earliest the public hearing could be is the first meeting in June.

Chairman Aieta: Okay, set it up that way, and put it on the agenda. Let's watch the agenda, we don't want to make it so that we are here all night.

**F. Sec. 8-24 Referral for Town Center Streetscape Program Phase VI  
(Constance Leigh Drive)**

Chairman Aieta: This is an 8-24 referral that came down from the Council. I'll open it up to the Commission for comments so that we can send it back with our recommendations. Would you just give us a brief overview of what you are showing?

Craig Minor: What the Town is proposing to do with the grant that we got from the State of Connecticut is a streetscape project from East Cedar Street south along Constance Leigh to Market Square. That is as far as it would go. The original plan was to go the whole distance of Constance Leigh, but it turns out that would cost more than the grant was for. They are proposing some safety provisions at the intersection with Lowrey where Best Market is, which is a very dangerous intersection. So we are proposing some traffic safety measures down there, but the bulk of the project will be curbs, sidewalks, decorative lighting, street furniture, decorative pavers to match the pavers on Market Square, and what this illustration doesn't show because it wasn't in the plans originally, is a traffic island in the middle of the road here, acting as a safety zone for people crossing the street. There is a graphic record of that in your agenda package. So that is the project. Obviously the Town Council is in favor of it, so they referred to you for your approval.

Commissioner Pane: Is the sidewalk going to match the previous improvements?

Craig Minor: It won't match exactly because the width that we are working with is less than the width along Market Square. On Market Square the color pattern had three colors in it because it was wider, ten to twelve feet wide, it was wide so they could have gray, brick and a white. It's not as wide on Constance Leigh, so we're going to use only two colors instead of three.

Chairman Aieta: You are going to buy the same kind of pavers, same company, and same colors?

Craig Minor: It will match.

Commissioner Pane: The first two didn't match. The first time they did it, and then they did it a second time, it didn't match the first time, so that is why I brought up that concern.

Craig Minor: You mean when Market Square was done? They didn't buy matching pavers? Okay, we will make sure that the contractor buys the right kind of pavers. I will make sure that the specs call for the right kind of pavers.

Commissioner Pane: The other concern that I have is on the east side of Constance Leigh, there is a section that's eight, nine feet higher than the street level, so you would need grading rights from Hartford Hospital, and since all that property is undeveloped, I really don't think it's a good idea to put improvements on undeveloped land because we don't know what is going to go in there. A developer could come in there, put in a building, they would need a cut through, it's going to get disturbed. I'm wondering if the Town would be better off spending the money on areas that were already improved because then when development comes in on that property, we'll be able to ask them to match the Town renderings.

Craig Minor: Our project was entirely within the town right of way, other than the grading rights from Hartford Hospital, until we found that the primary electric feed for this area of town will need to be moved, so we are in the process of talking to Hartford Hospital about getting an easement from them to allow Eversource to move the primary feed onto Hartford Health Care property. But our project, the curb, sidewalks, street trees, lights, all those things, will be on public property. When the private property gets developed, yes, whoever develops it will want to have a curb cut. They will probably choose the spot opposite the entrance to the parking lot, and yes, one or two trees would possibly have to be relocated, but we don't know when the Hartford HealthCare property will be developed. In the meantime this will be a beautification project for downtown Newington.

Commissioner Pane: I went over there today, it's, you would then need, if you stayed within the town right of way, you would need a wall there to hold the dirt back because the grade there, the grade goes up about seven, eight feet in about a seventy, eighty foot section. So, I'm concerned about that. I'm also concerned about putting improvements on undeveloped property. I would think that it would be better off having it farther down Constance Leigh and then going down Market Square, maybe in front of Best Market. It would be better off maybe to spend the money there, and then we should be concentrating on trying to work with Hartford Hospital to try to get a development in there, and when the development comes in, we'll be able to have them match the town trees and sidewalks, when they come in for development. I just think it would be better money spent to have it in another area instead of land that is undeveloped. I'm suggesting starting where the ambulance and from the ambulance down Constance Leigh until the end there,

Craig Minor: From the ambulance going south? So, from here south?

Commissioner Pane: Just in front of the ambulance a little bit there, and then down Lowry...

Commissioner Bottalico: Isn't there a big hill there now, in front of the ambulance? Isn't there a big hill?

Commissioner Miner: Yes.

Commissioner Bottalico: What are you going to do there?

Commissioner Pane: Well, you would have your walkway there, and then keep everything on the west side so you don't have, right now you are not all the way down on the west side. Why not stay with everything on the west side?

Chairman Aieta: I think what he is saying is eliminate this, come all the way down here, do that little portion here, and start coming this way, and then leaving this portion for the hospital, or whomever develops the hospital piece.

Craig Minor: Well, there is a deadline to spend the money, which is fast approaching, and number two, the consulting engineers have presented a lot of information and this is what the oversight committee opted to go with. If we asked the engineer to change his gaze and look elsewhere, he is going to have to start over doing a lot of survey work and gather information that hasn't been done yet, which obviously takes quite a bit of time. Continuing down Constance Leigh, I think most people expect this, in fact the oversight committee is calling that phase two. It is our plan to eventually do the other half of Constance Leigh but at this point, there is a lot of work already invested in this design.

Chairman Aieta: The engineer, or whom ever came up with this plan, was he, did he ever mention this grade change in this particular area, because if you have an eight foot grade change, you are going to have grading rights half way up the hill.

Craig Minor: Well, he has been out there, and the Town Engineer is on the committee, there are other people on the Committee, I mean, everyone knows about it, but no one has raised it as a problem.

Chairman Aieta: Well, if Domenic went out there and looked at it, and said there is a grade change in that area, he's in the construction business that does work like this, so I'd have to ask him what, you know, if he sees it as a problem.

Commissioner Pane: Well, they would definitely have to get grading rights, otherwise they would have to put a retaining wall up. I mean, I don't know why they didn't see this problem.

Commissioner Bottalico: How much is involved in dollars?

Craig Minor: \$470,000 from the State and forty or fifty thousand in engineering expenses from the Town.

Commissioner Sobieski: I have a question on the crosswalk area. You have an eleven foot lane, and I believe all of the truck traffic for Best goes through here. Also I believe the factory trucks come through here, and so does the post office. I strongly suggest that you leave this a twelve foot lane instead of an eleven. The other thing concern here with is the delineation, what are you going to do for this painted island going into this channelized island in here? You have an older set of people driving here.

Craig Minor: That's a curb. That's a curbed island. You are talking about the safety island?

Commissioner Sobieski: I'm saying the diamond piece that goes back on both sides. Option three.

Craig Minor: Yes, those dividers are painted, yes.

Commissioner Sobieski: So what I am saying is that, yes, in this area here you have at least one high rise elderly apartment in that area, I just want to make sure that they are protected with as much delineation as possible.

Commissioner Pane: Do you have parking on both sides?

Craig Minor: The committee decided that they did not want to encourage parking on the east side.

Commissioner Sobieski: Wasn't that one of the spots where the food trucks were supposed to go?

Craig Minor: Yes. It will be up to the Town what to continue to allow that along the street. The committee that is overseeing this project has recommended that we don't encourage parking on the east side of the street. The committee is not going to post No Parking signs, but they are not going to have perpendicular stripes to encourage people to park there. So, as far as food trucks, if the Town wants to allow a food truck there, I suppose that is a detail that will have to be worked out between the Police Department and the committee that is managing this, but it's the wish of the committee that there not be, again, not encouraging parking on the east side of the street.

Commissioner Pane: What about on the west side?

Craig Minor: I'm not sure about the west side, I think they are going to allow parking on the west side.

Commissioner Pane: Why does the plan call for nine foot passage on both sides and then eleven foot driveway?

Craig Minor: Because we hired traffic engineers and that is what they recommended.

Commissioner Pane: Well, Stanley is right, there are big trucks going in and out of there and eleven foot is not wide enough.

Craig Minor: Eleven foot is not wide enough for a truck?

Commissioner Sobieski: It's wide enough, but it's real tight.

Craig Minor: And they are going to have to slow down, we want them to slow down, because this is the crosswalk where elderly people will be crossing to get to the bus.

Commissioner Sobieski: This is the same spot where the bus stop is, am I correct?

Craig Minor: Yes.

Commissioner Sobieski: Where is the bus going to stop?

Craig Minor: Where the bus stop currently is.

Commissioner Sobieski: So basically we are going to be in a less than a nine foot shoulder in that area, if you are going to start tapering off to the side, am I correct?

Craig Minor: I see what you are saying, I'll point that out to the engineer.

Commissioner Pane: Is there curbing on both sides?

Craig Minor: Yes, to narrow the width, to slow people down. That is a traffic calming.

Commissioner Pane: I bet the highway department is going to love that.

Commissioner Miner: This design has recently been done on New Britain Avenue in West Hartford, right in front of Puritan Furniture, and it does definitely choke up in the winter time, I can tell you that much.

Chairman Aieta: Are there any other Commissioner remarks at this point?

Commissioner Pane: I think there are some things that we are missing here. I'd love to be able to comfortably approve this and move it up to the Council, but it doesn't look good where this crossing is, and some of my other concerns. Are you under a time constraint? We have so many days to approve?

Craig Minor: There are other time constraints on this project, but that is not one of them. If the Commission would feel better waiting until the next meeting to make a decision...

Commissioner Pane: If we don't do it within 30 days, then it is an automatic approval, so we have to give an answer within 30 days.

Chairman Aieta: So we have to approve it at the next meeting.

Commissioner Serra: Or not.

Commissioner Miner: Is it possible to get the Town Engineer, I know that we have asked in the past.....

Chairman Aieta: For something like this it would be appropriate for him to come, but we're not going to have the staff at every one of our meetings.

Commissioner Miner: In this particular situation, it seems that it would be prudent to have him here.

Chairman Aieta: Do you think we could get him here at the next meeting?

Commissioner Miner: I think he could answer a lot of our questions.

Chairman Aieta: We could put this on early so he would not have to stay for the night. Put this on as one of the first items on the agenda, but we brought up more questions that we had answers.

Commissioner Bottalico: It's about the bump outs. Have we had any problems with the bump outs when they are plowing on Market Square?

Craig Minor: Yes, there were problems...

Commissioner Bottalico: Why do we keep putting bump outs then?

Craig Minor: There is a reason for bump outs, and there is a reason why you train your snow plow drivers how to do their job, which is to drive a snow plow in a professional manner rather than redesign the project.

Commissioner Bottalico: But if you have 12 inches of snow, how can you see the bump out?

Craig Minor: Bump outs are there to protect pedestrians. They are for safety.

Commissioner Serra: So are speed bumps.

Commissioner Sobieski: Most towns that have these, their nine tons go straight through. They have a pay loader or a pickup truck plow out the bump outs. Are saying that the highway department is happy with this?

Craig Minor: I won't say they are happy with it, but they are aware of it, they have participated in some of the discussions.

Commissioner Sobieski: I know that they did have problems with the bump outs on Market Square, a lot of broken curbing, smashed curbing from the plow blades and stuff. It is time consuming, and if the Town is looking to not spend a lot of time on road maintenance, especially snow removal, this is (inaudible) Just wanted to make a point.

Craig Minor: There are pros and cons to every safety feature.

Commissioner Serra: I go through this area a lot in the course of a day. As far as the buses go, obviously this will have to change, but I have seen them sitting there with their flashers on, just waiting as cars are going by, just sitting there waiting. Whether they are waiting for customers, or if they have, planning their routes, whatever. Unless you have a pull out lane, that is not going to happen here.

Commissioner Bottalico: Right there, you have to go across the yellow line to get by.

Commissioner Serra: It's a problem now, it's going to be a bigger problem with this.

Chairman Aieta: We have a lot of information we gave to the Planner, a lot of questions, so we're going to table this until the next meeting when we will take it up for action, and maybe someone can enlighten us. If you can get the Town Engineer here to move this along, I suggest that he be here so if there are any questions, technical engineering questions, we can get an answer right away so that we can bring this forward.

Commissioner Pane: Is there a different engineer working on this with you?

Craig Minor: The consulting engineer who was hired for this project, and the Town Engineer is on the committee.

## **IX. OLD BUSINESS**

### **A. Petition 05-16: Zoning Map Amendment and Zoning Text Amendment (New Section 3.19A: TOD Overlay District, TPZ applicant/contact. Hearing closed April 13, 2016.**

Craig Minor: The change from last time is, I added the part about a detailed parking and traffic analysis to be prepared by a qualified expert.

Commissioner Pane: We usually require a traffic analysis only when there is a large traffic generator, for instance when there is over 250 cars for a project or something. Would this be overstepping the regulations and make any little development have to get a traffic engineer?

Craig Minor: Yes, which is why it wasn't my original recommendation, but I put it in there just now for the Commission's consideration.

Commissioner Pane: I gathered that that was why you didn't have it in there originally, because you thought it might be too much, unless it was a big traffic generator.

Craig Minor: Under the special permit regulations you can always require more information if you want. I just got the feeling that some of the Commissioners would feel more comfortable if it was in the TOD regulation.

Commissioner Pane: That is an interesting point that you make. Under the special exception regulations, if this wasn't here, Paragraph C wasn't here, but somebody came in and we thought we needed more information, we could ask for it.

Craig Minor: That's correct.

Commissioner Pane: Thank you.

Chairman Aieta: Mr. Sobieski, you were the one that asked for this particular thing be added to the regulations. I think what Commissioner Pane is saying is that some of these are small developments, small areas, where we might be putting an overdue burden on an applicant. We're trying to get people to develop these areas, and we've even given them incentives for them to do it. What are your thoughts on it?

Commissioner Sobieski: My concern was, an applicant comes in with one piece, two pieces, three pieces; we need to look at the entire project. That's what I'm concerned with.

Chairman Aieta: You are talking about a master plan, and we don't have control over all of these different parcels of land. It might not be all the same owner, so we can't get a master plan because it's multiple owners. I know what you are saying, because I asked for the same thing. I asked for a master plan for the Firestone property of the three pieces, and now we find out that might have been the best thing.

Commissioner Sobieski: That would be my concern with the four pieces. I was concerned with those four pieces, and we have already approved something for one of them. I just wanted to see if we could get a master plan, since he owns all four of them. That was my issue.

Commissioner Pane: I don't know if he has a master plan or not, but I do think that you have a legitimate concern. If he came in again for something else, we would want to see the master plan at that time. I don't think we need this in here because we know to ask for that. The Chairman's request back when Firestone came in, he asked for a master plan on that whole development and there was only one property owner, so they could have given it to us, but they chose not to. I think that it is good to get a master plan and I think the Commission, under special exceptions, can request it.

Commissioner Sobieski: If the Commission feels comfortable, fine.

Chairman Aieta: I think the next time he comes in, we say, we want to know what you are going to do with the rest of the parcel, because you are coming in piece by piece, and maybe you come in with the last piece, and we think that you are generating too much traffic, and you are going to have to leave that piece vacant. I don't think he would like that, so maybe it would be to his advantage to come forward with a master plan the next time that he comes in.

Commissioner Sobieski: Do we know what's going into National Welding?

Chairman Aieta: I don't know anything about that, maybe the Planner.

Craig Minor: I'm not privy either.

Chairman Aieta: We're only the Planning and Zoning Commission, they don't expect us to know all that. When they throw it in our lap, we don't get any warning.

Commissioner Sobieski: On the first application, Starbucks, do we know if the Town Engineer has approved all of the drainage issues up there?

Craig Minor: No, it's still at an impasse. It stuck at what information the developer is willing to provide, and what the Town requires.

The consensus was to strike Paragraph C: A detailed parking and traffic analysis prepared by a qualified expert.

Chairman Aieta: Make that a condition of approval.

Commissioner Pane moved to approve, effective upon publication, Petition 05-16: Zoning Map Amendment and Zoning Test Amendment (New Section 3.19A: TOD Overlay District,) TPZ applicant/contact."

Findings:

1. The proposed Transit-Oriented Development (TOD) Overlay District will encourage high quality development within walking distance of the Cedar Street CTfastrak station, which will grow Newington's grand list, create employment, and provide Newington residents with additional retail, commercial, residential and entertainment opportunities.
2. The TOD Overlay District will be consistent with the 2020 Plan of Conservation and Development. Specifically:
  - a. **Development Strategies (Chapter 4):** Community Character: Strategies:
    2. Establish "transit-oriented sites" at appropriate locations when transit stations have been established (page 24.)
  - b. **Development Strategies (Chapter 4):** Business Development: Strategies:
    11. Create an interchange design district zone for the Cedar/Fenn area that would permit by Special Exception transit-related development for both residential and commercial uses (page 36.)
  - c. **Consistency with State Growth Principles:** (Page 52)

Principle 3 - Concentrate development around transit sites and along major transportation corridors to support the viability of transportation options and land reuse.

Findings: Consistent Two new transit stations are envisioned for Newington and the Plan recommends establishment of mixed use and transit oriented development in these areas.
3. This amendment has been referred to the Capital Region Council of Governments, and was deemed to present "no apparent conflict with regional plans and policies or the concerns of neighboring towns," With the condition that we delete 5 D 1C, that states the detailed parking and traffic analysis prepared by a qualified expert.

The motion was seconded by Commissioner Camillo.

Commissioner Pane: When we get to the other TOD regulation, is it going to be in the same place in the regulations, or in a different area? I want to make sure that each TOD regulation is different so people aren't confused. This regulation is for the Fenn Road/Myra Cohen Way area, and the next one is going to be for the other station, and they could be different regulations.

Craig Minor: Right. This one is 3.19.A, because I noticed that the Town Center village overlay district has a letter. The Town Center is Section 3.12, and there is a Section 3.12A, which is the town center village overlay district. So using that same thinking, I started with Section 3.19, which is Special Exceptions allowed in the PD Zone, and I gave the TOD regulation the number 3.19A. When we are ready to do Newington Junction, I think what we may do is rename today's regulation something a little more unique, like Cedar Street Station TOD Overlay District, Section 3.19A, and the Newington Junction TOD Overlay District will be Section 3.19B.

Commissioner Pane: So then where it says, 3.19A, basically you want to add, Cedar Street Transit Orientated Development.

Craig Minor: We could do that now, or wait until we have a Newington Junction regulation and then at that time, give this more of a name.

Commissioner Pane. Okay, thank you.

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

Chairman Aieta: Before we get to the motion, I would like to put on the record, that in no way are we trying to punish someone for actions that happened in the past. I believe that the record speaks for itself on this application, that they didn't do the Commission justice by holding off until the last minute, bringing this in so that we were forced to make a decision the same night that we heard it. From the testimony, they raised more questions than we had answers. We are not shutting them down, we're just telling them not to expand the outside dining area. They can still have their Cinco de Mayo festivities inside the building, they can still run their restaurant area, and they can still advertise that they are having an event there, but they will not have the opportunity to do it outside of the building.

Commissioner Pane moved to deny Petition 14-16; Special Exception (Section 3.15.3; Outside Restaurant Seating) at 3260 Berlin Turnpike (Plaza Azteca Restaurant") Hector Angel, owner; Manuel Rubio, applicant/contact."

**Findings:**

1. The applicant has not sufficiently coordinated this event with the surrounding restaurants and with Lowe's.
2. The applicant intends to facilitate customers to cross the Berlin Turnpike on foot, which is a violation of State Law.
3. The applicant has not provided sufficient parking on-site.
4. More occupancy is anticipated this year than last year, which was so excessive that the Town emergency personnel were called to the scene.

The motion was seconded by Commissioner Sobieski.

Craig Minor: Mr. Chairman, the applicant asked me to convey something to the Commission, just for your information. Puerto Vallarta, the other Mexican restaurant in town, also holds a Cinco de Mayo event. They have approved outdoor seating, and what they do for their Cinco de Mayo event is that they take some of the tables that they have on their patio and move them to kind of wrap around the building. Mr. Rubio's point is that Puerto Vallarta is putting their tables in an area that is different from what is on their approved plan. But it's the same number of tables and chairs. It's not an increase in the number of tables and chairs.

Chairman Aieta: I can just tell you that the other restaurant has outside seating that is enclosed by a wall. They are not taking seating from inside the wall, putting it outside of the wall. They are not doing that. Do you have knowledge of that, Commissioner Serra, where they are expanding their seating beyond the confines of their patio?

Commissioner Serra: I don't believe on a regular basis.

Chairman Aieta: How about the Cinco de Mayo?

Commissioner Serra: I was inside, so I really didn't .....

Chairman Aieta: That's here say, that has nothing to do with this application. Azteca has an outside area that is approved for outside dining, and if they choose to take those chairs out of there to make more space, and whatever, but not expand out onto the lawn with the band and all the rest of the stuff, they can. If they want to put a band in there, within the confines of the building and the confines of the approved patio, they could have their event, but they have to go by the occupancy of the building. They are not going to be allowed to use the grounds, and that is what we are saying in this motion. I think that is where we are. We should make sure that the Police Department and the Fire Department are aware of our actions and send them a copy of this disapproval, so they know what these people aren't allowed to do.

Commissioner Miner: Just one more thing. It seems like all of the issues are related to parking. The onus is on them to hire additional police officers, one to control access to control access going into Lowe's, where his job is nothing more than to say, you cannot park there. You are subject to being towed, and Lowe's, at their discretion can have it towed, same thing going across the street at Target and putting the onus on that one individual to say, you can't legally park there, you are subject to tow because, it's almost as if, all the issues being related to parking, if you back that out, that the majority are circumvented. You don't have those issues. If they can't, then they are subject to being shut down, just as they were last year.

Chairman Aieta: Well, they won't have approval if this motion passes, they will not have, they would have to come back in and reapply for next year, because as far as I'm concerned, when we vote on this motion tonight, and this motion gets approved, they will not have the opportunity, and then it is up to the Police Department and the Town to enforce the law. If people are going in there, if they can't control the crowd that comes in anticipation of this, and they are parking all over the place, then maybe Lowe's has to call the Police. We have to put the police and the fire department on notice of our actions tonight. Will you do that?

Craig Minor: Yes, and the Zoning Enforcement Officer, too for occupancy.

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

**X. PETITIONS FOR PUBLIC HEARING SCHEDULING**

None.

**XI. TOWN PLANNER REPORT**

Craig Minor: The only item I had from the last meeting was regarding the Sloppy Waffle. They have in fact expanded within the building. They did not have a building permit for that. I prepared this memo back on the 21<sup>st</sup> and I haven't talked to the ZEO since but he is following up on it.

Chairman Aieta: Okay, we want a resolution. Are they still using it as dining area?

Craig Minor: I haven't spoken to Mike since...

Chairman Aieta: You have to impress upon him that we want that operation stopped. We want it confined to the original portion of the building. I don't know as far as the building department, that's not under our purview, but someone should be upset because they went in and did work without a building permit. That's a whole different issue. That has nothing to do with us, but as far as our charge, that portion of the building should be blocked off and not used for anything until we get this issue resolved. I think he has to go over there and have a talk with them and tell them to block that opening until you come to the Commission.

Craig Minor: Okay. That's all.

**XII. COMMUNICATIONS**

Chairman Aieta: You have in your packet the CRCOG Zoning Amendment Report that we get on a monthly basis that the Planner is providing. Any questions on those?

**XIII. PUBLIC PARTICIPATION (for items not listed on the Agenda, speakers limited to two minutes.)**

John Bachand, 56 Maple Hill Avenue: I know it's late and everyone wants to go, but I will show you the part that has been bugging me on this whole farm thing and private stables. You remember when I was here and I caught the conversation about the private stables and I got all excited about it, and then I realized the way that it is written, it precludes almost every property in town, even the ones that have the one additional acre. It's 3.4.2. "Private stables: Land in excess of buildings associated with private residences may be permitted by the Commission for private equestrian use when located not less than 100 feet from any property line...". So, if you figure one extra acre for a horse, a builder's acre is 200 x 200, you couldn't even possibly put the land in there for the horse because you are within 100 feet of the property line. So even if you had four acres, 200 x 800, you couldn't meet that "100 feet to the property line" on either side. But if you look at Section 3.1.3, that's on page 2, where it talks about farms, it's 100 feet from any dwelling on an adjacent lot. That gives you more flexibility and that makes it more possible. That's the thing that I'm hung up on, that on a farm, you could raise cows and slaughter them within twenty feet of the property line, but you can't have a private stable within 100 feet of the property line. So, there is new language added to 3.4.2 where it says, "Land and accessory buildings associated with a private residence may be permitted by the Commission for private equestrian use..". There are two things that if changed on that I would be happy. If you took out "equestrian" and just had "private use", whatever you want you could put in a stable. I would think that a goat would have far less impact on the neighbors than a horse. And, change that from "100 feet to the

property line" to the same that the farm has, because the farm has no regulation on how many animals you could have, it just, you could have animals.

Craig Minor: John, I think you have strayed into the public hearing item, so come back next week when we will hold the public hearing and say all of those things again.

John Bachand: The part that I am hung up on, the private stable item.

Chairman Aieta: The public hearing is still open. Come up next time and bring those points up.

John Bachand: I appreciate it, but I just think it's all tied in.

Chairman Aieta: Well, it's not tied in, because we are only looking at the backyard chicken thing, we are not looking at goats and anything else that you want to talk about. We are looking at chickens and that's it. We're not turning back the clock 150 years in the Town of Newington. You have to realize that the Town has lot sizes that are restricted. Especially on this chicken thing, we don't even know where we are going with it.

John Bachand: I appreciate you looking into it. As I said, Berlin and Wethersfield have that chart to go by.

Commissioner Serra: We're not Berlin and Wethersfield.

John Bachand: I heard that you wanted to pick and choose from other towns, and those are our two closest towns.

Rose Lyons, 46 Elton Drive: I want to apologize for having left before Mr. Minor gave me the answers to my questions. Apparently there is a problem with the telephone, when it was ringing earlier, that's for the Board of Education. I went up there to tell them that there was a problem, and you saw the Police Officer that came in. I think it is directly tied to that phone, so I just wanted to apologize for leaving. Someone in the audience gave me the answers to my questions, he didn't know of any other assisted living up on the hill, and as for Veterans Landing, I understand that someone made an inquiry about it?

Craig Minor: A newspaper reporter.

Rose Lyons: I didn't put them up to it, I just happened to be looking for something for my brother and came across it, but I also wanted to bring up the point that this is the second time that there has been an incident in this room where the police had to come. I've asked numerous times that they put a sign outside that says "L101". One gentleman had some sort of a heart problem, and it took them a while to get here because they didn't know where it is. So, I'm going to ask again at the Town Council meeting, that perhaps a sign be put out there to make them aware of where it is. Banners. Coming home from church Saturday afternoon, and the banners are starting already. It wasn't even May 1<sup>st</sup>.

Chairman Aieta: If you drive by Clem Lemire....

Commissioner Bottalico: There's about 30 of them tonight.

Chairman Aieta: It's almost filling up the fence.

Rose Lyons: Why bother wasting your breath?

Chairman Aieta: I don't know where to take it.

Rose Lyons: This is not directed to anybody. I'm just confused about this 8-24 referral and whether this body okays it, or okays the Plan of Conservation and Development for the town. Meetings were held, a grant was applied for and accepted, a committee was set up with just staff from the town, and then the Town Council added two councilmembers to the committee. There were meetings where people came and gave input. I don't know whether you were aware of these meeting, whether that is something that you can't go to, that you have to wait until it gets to this point, but it seems as if we are going backwards. They went through their whole procedure, and then it gets here and it seems like it's just starting all over again. Just my opinion, because I was at the meeting, and the questions that you raised were raised at those meetings.

Chairman Aieta: How do you explain the safety concerns that these Commissioners brought up? If it was totally vetted by the committee then how do we come up with, in five minutes, Stanley looks at it and sees that you can't get a bus through. That is why it is comes to Zoning for an 8-24 review.

Rose Lyons: Perhaps whoever was on the committee should be here.

Chairman Aieta: The problem with us getting involved with designing it, is that we become the judge and jury. So, we prejudice something that we have to judge twice.

Rose Lyons: Isn't that what you are doing with Alumni Road? Aren't you coming up with a plan, and it is going to have to come back here?

Chairman Aieta: Yes,

Rose Lyons: I will have to educate myself more, because I get confused.

Chairman Aieta: The 8-24 is asking us to look at it from zoning issues which is safety, health, welfare, all the different items that we have control over. That is how we are looking at this.

Rose Lyons: There wasn't anything other than what Mr. Sobieski said. I recall hearing the same concerns about the bump outs, about the bus, about this and about that at the meeting, and I guess that is where I am confused. I'm just hoping that in the future, the people who are involved could be sitting here, where I am sitting just to answer some questions.

Chairman Aieta: It sounds to me like the engineer never gave an indication to the committee that there was a grade change of 8 feet in some areas that would require either a wall or grading rights that go halfway up the hill.

Rose Lyons: I understand what you are saying, and I appreciate the questions that are being asked, and some of them are new questions that were not asked at the meeting, but I would hope, in the future, have somebody here to answer the questions that you have. Thank you.

#### **XIV. REMARKS BY COMMISSIONERS**

Chairman Aieta: Do you want to have a quick discussion about the banners? You are all aware of what transpired? Tell us of the events, how it got up to this point.

Craig Minor: A couple of months ago the Commission decided to talk about the banners, early, so its feelings could be conveyed to the Board of Ed early. The Commission discussed it at some length at a meeting and came up with five or six criteria that the Commission

thought were appropriate for these graduation banners. I conveyed it to the Superintendent, and I know last year he put a press release in the paper that appeared on May 22<sup>nd</sup>, telling parents what the rules are for banners. Now, it's not May 22<sup>nd</sup> and the banners have already started showing up. As of Monday afternoon there were 30 on Clem Lemire, and I have no idea of how many there are now. I contacted the Superintendent of Schools and his response was, it's a Town issue.

Chairman Aieta: We sent that in March, and he didn't have the courtesy to respond to us and say, it's a town issue. If it was, then why did he take the initiative last year to write something and put it in the paper? I don't understand. He could have given us the courtesy of just calling us to say, listen, I'm not going to get involved in this, this year. You are on your own. At least we would have had some time. Now we are into the situation where what are you going to do with the 30 banners that are up there? Go rip them down? I mean this Commission has been talking about this issue for a year, we have safety concern issues, not because we don't want to see their names up there, but we're concerned that they're up there so long that these things become kites, flying onto car windshields and all the rest of the problems that Stan brought up. They are up there a couple of weeks, it's not a problem. Now they are going to be up there for two months.

Commissioner Sobieski: I thought we told the Superintendent that it was going to be two weeks before school ends and two weeks after? He saw fit last year to put it in, now all of a sudden this year it's the town's responsibility? My concern is the bridge over Willard Avenue. Once those start blowing into traffic and cause an accident, maybe the Superintendent will have an answer for that, or maybe the DOT should be informed and have them taken down, but in any event, this Commission and the Town of Newington is solely responsible for the safety of people on the roads. If they are allowing things to be posted on their property, and something happens, then they bear the ultimate responsibility. I think the Superintendent should be made aware of that fact. Thank you.

Commissioner Pane: Stanley has some excellent points here. This comes back and this could made the town liable. A real predicament. I guess they graduate on June 10<sup>th</sup>, so maybe they have to come down right after that June 10<sup>th</sup>. June 11<sup>th</sup>, they have to come down, they went up so early, we can't leave them up afterwards. I think we are going to have to keep an eye on them too, and the ones that I am most concerned with are on the bridge that Stanley was talking about. If those get lose, and they fly around, that could be a big problem.

Commissioner Bottalico: I have a question. Why isn't DOT taking them down? When it's political season they sure take them down quickly.

Commissioner Sobieski: You have to realize that there are 38000 miles of state highway, and all 169 cities and towns allow kids to put stuff up, if they fall, they are going to take them down, as a safety issue.

Commissioner Bottalico: The ones at Clem Lemire.....

Commissioner Sobieski: I'm not concerned with that, I'm concerned with the ones on Willard Avenue.

Chairman Aieta: I think at June 10<sup>th</sup>, June 11<sup>th</sup>, I will call the highway department and have the highway department take them down. I'll call Califon, and he will go and take them down.

Commissioner Sobieski: Again, we are using town services and town money to take them down.

Chairman Aieta: It happens every year. The people put them up, but they never take them down. If we don't take them down, the ones from last year would still be there.

Commissioner Bottalico: The only ones that get taken down are the nice ones that are professionally made.

Commissioner Pane: Maybe we should notify Dr. Collins of our disappointment that he didn't notify anybody about what was going on, and due to that, that he should notify the kids that if they want these they should take them down on the 11<sup>th</sup>, because on the 12<sup>th</sup>, they are coming down, something like that. Give them a period of time to take them down after the 10<sup>th</sup>, and then right after that, they are going to come down, in case they want to save them.

Chairman Aieta: Why don't you send him that correspondence? Don't spend a lot of time, send him an e-mail saying okay, if you want to do a service to your students, have them take them down right after the graduation or the Commissioners are going to ask the town to remove them.

Craig Minor: The policy that we sent to Dr. Collins was that the banners could be up two weeks before graduation and two weeks after. But now you want to have the banners come down...

Chairman Aieta: The week after, they have to be taken down, and after that, we are going to remove them.

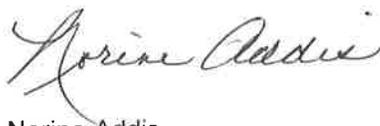
**XV. CLOSING REMARKS BY THE CHAIRMAN**

None

**XVI. ADJOURN**

Commissioner Pane moved to adjourn the meeting. The motion was seconded by Commissioner Serra. The meeting was adjourned at 10:40 p.m.

Respectfully submitted,



Norine Addis,  
Recording Secretary

