

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

June 12, 2013

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

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Carol Anest
Vice-Chairman Michele Camerota
Commissioner Michael Camillo
Commissioner Stanley Sobieski
Commissioner Frank Aieta-A
Commissioner Audra Ekstrom-A
Commissioner Kenneth Leggo-A

Commissioners Absent

Commissioner Cathleen Hall
Commissioner David Lenares
Chairman David Pruett

Staff Present

Craig Minor, Town Planner

Commissioner Aieta was seated for Commissioner Hall, Commissioner Leggo for Commissioner Lenares and Commissioner Ekstrom for Chairman Pruett.

II. APPROVAL OF AGENDA

Vice-Chairman Camerota: Are there any changes to the agenda?

Craig Minor: Yes, I recommend that you delete from the Public Hearings, Item C, Petition 29-13, Special Exception for a free standing sign at 56 Fenn Road. The applicants did not put up the sign in a timely manner, and the same thing for the next one, Petition 31-13, a restaurant at 10 East Cedar Street, the applicant did not put up a sign.

III. PUBLIC HEARING

- A. Petition 19-13: Zoning Text Amendment to Section 6.1.1.C (Parking Standards.) Hayes-Kaufman Newington Associates LLC, applicant; Mark S. Shipman 20 Batterson Park Road, Farmington, CT, contact.**

Mark Shipman, 20 Batterson Park Road: I'm not going to take a lot of your time, because this is a relatively straight forward application. Presently, when a shopping center is built, you have to go through the whole list of uses to determine how many spaces need to go into the shopping center, and then once that is determined, every time a store changes, you have to go back in and calculate how many spaces you need. If it's a restaurant, you have to make sure that your count will let you be a restaurant, and when you do the count, you have to

determine if you had a restaurant close and you had an empty store, how do I count them. It makes no sense. Most shopping center are quite frankly over parked, the requirements are as important for the shopping center owner as for the town, because the shopping center wants to make sure that his tenants have enough space for their customers to park, and the tenants often dictate how many spaces that they want, and in addition, the uses vary in a shopping center, and the times of the uses vary, so everybody is not there at the same time, everybody is not there for peak hours. Those in the grocery store might be there in the morning, they might be there in the evening, but they are likely not on the premises for more than fifteen minutes to a half hour. The restaurant may stay there for an hour, but when the restaurant does their dinner business, if there is a real estate agent, or a bank, or some other kind of business, they are closed, so it's kind of a rolling population, and it really will save a lot of aggravation I think for your Zoning Enforcement Officer and Building Inspector to have to calculate every time that somebody comes in with an application, to determine how that affects the parking spaces. We're not here for any particular reason, because we are having difficulties, we're over parked and it does present a problem every time we have a change, not a change in use, but a change in tenant. The staff had made recommendations to my original application, and I think they are an improvement to my initial application, and we will incorporate all of those changes as made, with one exception, and it's not an exception, but in the definition of a super market, grocery store, in the fourth line, where it says by fifty percent by volume sales, I think you mean of volume sales, or sale volume. Other than that, I'd be glad to answer any questions.

Vice-Chairman Camerota: Craig?

Craig Minor: I'll answer the last item first. I cut and pasted this from the zoning regs, so that there may be an error in.....

Mark Shipman: Maybe an error in those.

Craig Minor: I'll double check.

Mark Shipman: As long as you are amending it, you might as well stick the "or" in.

Craig Minor: I can certainly do that. I support this amendment, it addresses what I think is a deficiency in the zoning regs currently, which is that, although we have a definition of shopping center, that phrase doesn't appear any where in the zoning regulations. As we know, shopping centers, because of their mix of tenants as Attorney Shipman just said, there tends to be an averaging out of the need for parking in large shopping centers. So I support the amendment, I would have one change though, as Attorney Shipman alluded to, I would suggest that our definition of shopping center address the 50,000 threshold for the parking to be applicable. Just for the record, I went through the Plan of Development, I did not see anything in the Plan of Development that indicated any conflict with this amendment, and the amendment was referred to the two local regional planning agencies, CCROG responded by saying that it had no regional impact, I have not heard back from yet from the Central Planning, but I did have a discussion with their Planner who indicated that they did not have a problem with it.

Vice-Chairman Camerota: Thank you. Commissioner comments?

Commissioner Aieta: For the Planner, what other shopping center would this affect in town? Have you looked each one?

Craig Minor: I looked at about a half dozen to get a sense of how many shopping centers we have in Newington and what the procedure had been for approving them in the past, but I can't answer your question about how many would be affected by this amendment.

Commissioner Aieta: This is a large size, this is a very large size threshold. This is a huge threshold, so you probably are talking only three or four. Do you know Mark?

Mark Shipman: No, I know you have a few on the Berlin Turnpike, you have the Dick's Plaza, you have Shaw's, the Stew Leonards, I don't know of any in town, they are all on the turnpike, there's another one, Wal-Mart. I think Northwood, the principal tenant is only about thirty thousand, and the whole center is probably.....

Commissioner Aieta: Just a comment, in the past, there have been shopping centers that have come in, the Korover shopping center on the Berlin Turnpike came in for a reduction in, they had, the regulations I think were skewed to the point where there was over parking, and they came in and we reduced the parking on that site, enough so that they could put an outbuilding, a restaurant, so maybe at that time we should have looked at the regulations more closely, so I would be in favor of this.

Vice-Chairman Camerota: Any other comments, questions? Attorney Shipman, this is a public hearing, we'll get comments from the public and you will have your opportunity to rebut.

Attorney Shipman: Thank you.

Vice-Chairman Camerota: You're welcome. Anyone from the public wishing to speak in favor of this petition? Anyone from the public wishing to speak against this petition. Hearing none, what is the will of the Commission? Do you want to close it and move it forward for next meeting?

Commissioner Sobieski: I think we should close it and move it forward for the next meeting.

Vice-Chairman Camerota: Everyone agree? Great, that's what we will do.

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

Vice-Chairman Camerota: Is the petitioner here. Come forward and state your name and address for the record.

Albert Garrido, 5 Stillwood Court, Rocky Hill, CT: I really don't know much about that kind of things, I made an application with Mr. Minor. I want a pizzeria in one of the store openings that there is in the Fenn road Plaza, and I have been working with the people for equipment, I have been talking with Mr. Minor in the Town Planner's office and it will seat 34 people, and I do not believe personally that we are going to have that amount of people every single moment, but we will have a lot of delivery and pick-up. That's pretty much what I can tell you.

Vice-Chairman Camerota: What days of the week are you going to be operating, and what hours.

Albert Garrido: I think we will be operating ten to ten, five days, depending on how it moves. We don't know if we are going to be open seven days a week or maybe we are going to be open only five or six days.

Vice-Chairman Camerota: Craig, comments?

Craig Minor: Yes, I did review the floor plan, that Mr. Garrido submitted, and the amount of public area for the proposed restaurant is comparable to the prior retail use required, so there is enough parking and it is a permitted use subject to the Special Exception.

Vice-Chairman Camerota: Commissioner comments?

Commissioner Aieta: There was a pizzeria in that plaza at one point and they moved out, so as far as parking, parking for thirty-four parking places, we just heard the prior application which is looking for a change in the regulation to reduce the parking, that site is adequately, has enough parking to accommodate this size of restaurant without any problems, so if there is not any other problems, I would say it looks pretty good.

Vice-Chairman Camerota: Any other comments on this? Mr. Garrido, this is a public hearing, so if you would just have a seat, and then we will see if anyone from the public has comments on your petition?

Albert Garrido: Thank you.

Vice-Chairman Camerota: Thank you. Is there anyone from the public wishing to speak in favor of this petition? Anyone from the public wishing to speak against this petition? Hearing none, what is the will of the Commission on this one? Do you want to close it and move it to Old Business for next meeting?

Commissioner Aieta: I looked at the suggested motion, and there is really no comments. To get the people started, maybe we could move this to Old Business tonight and act on it tonight?

Vice-Chairman Camerota: What is the consensus on that? Is everyone in agreement, or....okay we will do that then, we will vote on this tonight Mr. Garrido.

Albert Garrido: Thank you.

Vice-Chairman Camerota: You're welcome.

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

Deleted from the Agenda

- D. Petition 31-13: Special Exception (Section 3.15.3: Restaurant) at 10 East Cedar Street; Newington Development Associates LLC, owner; Anzor Tatschadze, 100 West Street Apt. A3 Rocky Hill, CT, applicant/contact.**

Deleted from the Agenda

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

Allison Clark, 25 Wilbur Drive, Newington: Good evening, I'm here tonight to discuss Balf Quarry. Last year I asked Chris Schroeder the Fire Marshal if Balf Quarry had a quarry closure plan. I asked him, or as you are probably aware, that closure plans are critical to a strategic management reporting. Closure plans should be the basis of current and future blasting. The plans should be consulted every time a blast occurs. The closure plan is their roadmap so to speak, for final perimeter excavation, filling and landscaping goals. I asked Bernadette Conway, Clark Castelle and Beth DelBuono, to discuss or bring up the importance of a closure plan with the owners and/or the representatives at the annual Balf Quarry meeting last October. Bernadette asked the owners or the representatives if they had a plan, or if they were preparing one, and the owners/representatives said they don't have to have plans, they don't plan to leave any time soon, so they don't need a closure plan. They will be around for at least another twenty years. Contrary to what the Balf owners and representatives want us to believe, closure plans are not prepared when a quarry operation decides it wants to close. Quarry plans should be prepared at the on-set of a quarry or mining operation, again, every time they blast, they should be looking at a closure plan, determining what the eventual re-use of the land should be, they are in the business, they know this, they are not stupid. Again, it is wiser to anticipate closure and its issues rather than later. It's harder to fix and remediate blasting nightmares after the fact. You yourselves updated the Newington Planning and Zoning Regulations in 2011 adding several measures that are very indicative of a typical closure plan regulations in Section 6.4 so I know that you get it. Balf says that they don't need a closure plan, what will happen when they leave the property, when they pick up and go? They know that you don't prepare closure plans when you decide to close, they just don't want to be held accountable, they have a holier than thou attitude. They tout the fact that they are grandfathered in, they predate zoning, and that the zoning regulations don't apply to them. They have done this for quite some time. Their response is, (inaudible) but it reflects an inherent disrespect and disregard for the property. Given their response, I did a little research. I met with the Fire Marshal, asked him questions, checked with the Building Department, and looked for on the book meeting minutes at the time, which was about a year ago, there were only two sets of meeting minutes available to review, and quite frankly, they were a joke. After that meeting, I couldn't help wondering what the Balf Committee was charged. I have no disrespect for Bernadette Conway, she's a great friend of mine, but she has tried to represent the town at the Balf hearings, unfortunately whenever she speaks on behalf of the town, she's met with resistance and their atypical, we predate zoning. So, I wondered when and why the Balf Committee was formed? The Town Clerk helped me locate a resolution approved by the Newington Town Council in April of 1989. I'm not sure if any of you have seen a copy. The resolution was created in 1989, the town was suing Balf, and Balf was suing the Town. They both agreed to drop their law suits, and abide by the resolution which states, "The Balf Company hereby agrees to submit to the Town Plan and Zoning Commission, for acceptance for acceptance a site plan showing all existing uses and structures and areas of operation. Said site plan shall also show the existing perimeters of the areas of the quarry excavation. Immediately thereafter the Balf Company will apply to the TPZ and seek approval for the changes involving proposed uses, proposed structures, and changes in the planned perimeter excavation. Every February in the odd years thereafter, Balf agrees to submit to the TPZ an updated site plan showing proposed new uses, proposed new structures, and planned perimeter areas of excavation, if any and a statement of its intended operations for the ensuing two years." The TPZ Chairman at the time stated "the consensus of the TPZ is that this is a positive step. It will greatly assist the TPZ in enforcing its land use control. The submission of a site plan, plus reviews every two years will enable the Town to monitor quarry expansion, something we do not have now, and we will have if this is passed." If this agreement was hopefully

signed by both parties, it gives TPZ the right and responsibility to review and approve Balf Quarry excavation plans. Again, with all due respect to the Fire Marshal and the current system whereby Balf simply requests a special permit whenever they want to blast, and basically they say, how much they want to remove. There is no questions asked, the Fire Marshal approves the permit. This is a travesty. I totally again, respect the Fire Marshal, he should be present overseeing any blasting, but TPZ's job is to oversee site plans and excavation. The Fire Marshal may know everything about blasting, but he's not a land use specialist. It should be up to this Commission to oversee everything else. I'd like to know if the Balf Committee has come to this Commission as they were supposed to in that resolution. I looked into the meeting minutes for TPZ for the past February of 2011 and 2013 and there was nothing in there about Balf coming to this committee. So it just appears to me on the surface that they are not coming to this Commission even though they should be. If not, please follow the charge of this resolution, protect and oversee the Balf Quarry in the future. You have that right, contrary to what Balf would have you believe. Try and discuss a closure plan with them, urge them to engage and prepare a closure plan. Now maybe they have done this and I just haven't see it in the minutes, because I'm looking in the wrong place, but I do ask you to please oversee all the Balf Quarry activities so that now, twenty years from now, thirty or fifty years from now, when they decide to pick up and go, the land will be reusable, it won't just be a huge hole in the ground.

Vice-Chairman Camerota: Thank you. Anyone else from the public wishing to speak on items that are not on the agenda? Commissioner comments?

Commissioner Aieta: I happen to have been around for the last thirty years, so I remember this quite vividly, I mean, the whole suite situation. It is correct, I don't believe it has ever come before the town Plan and Zoning Commission, Carol could.....

Commissioner Anest: I think they did.....

Commissioner Aieta: But they didn't come on the two year basis.

Commissioner Anest: We were upstairs, they did, but it wasn't an odd year, I think it was an even year.....but I do recall someone from Balf...

Craig Minor: I'll look into it.

Commissioner Anest: And maybe we can discuss it at our next meeting, find out what.....

Commissioner Sobieski: I have a question. Does anybody know if there are any federal or state regulations on this quarry closing?

Commissioner Aieta: I think their opinion is that they have thirty, forty years left of the operation of the quarry and they don't want to have closure plans. Eventually they will run out of material, they're, I've heard estimates of thirty to fifty years of life left in that quarry.

Vice-Chairman Camerota: I think I do remember having them.....

Commissioner Anest: They had some aerial maps.

Commissioner Aieta: But I don't believe that they came on the regular basis that they were supposed to. I don't believe that the town has monitored the site plan from year to year as compared to the year before, what was removed, it's a humongous task to do that but both parties are in agreement.

V. **MINUTES**

A. May 22, 2013

Commissioner Sobieski moved to accept the minutes of the May 22, 2013 Regular Meeting. The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with six voting YEA.

VIII. **NEW BUSINESS**

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

Vice-Chairman Camerota: Is the petitioner here? State your name and address for the record?

Frank Kowal, 25 Webster Court, Newington.

Vice-Chairman Camerota: Now Mr. Kowal, I know that you sent in a letter, do you want to just ready that into the record, or do you want to have that as part of the record for tonight.

Frank Kowal: Rather than read it, if they want to discuss it, and see if there are any questions. I do know that I mentioned that there were some questions regarding drainage, on this piece of property, and I don't know if anyone has had a change to take a look at it, but there doesn't appear to be any additional drainage situation that would be caused by construction of a house on this lot besides the driveway itself. The driveway, if there was any problems, there is a swale between this lot and the adjacent lot, and a yard drain could be put in. The road is a private road, it's not a public street. The set backs are modified set backs of twenty-five feet, so it wouldn't be any problems or requirements by the town to put in any additional drainage. Drainage from other areas adjacent to the project, I just can't see how they would affect, Commissioner Hall I think mentioned that there was water coming down from the adjacent subdivision, from Rockledge Drive, and this lot is so far away from Kowal Court, not far away, but from the flow of water and all the drainage, Rockledge should really be responsible for retaining their own run-off on their property, as other developments are required to do. Again, this lot, this subdivision of one lot wouldn't add basically any runoff in the neighborhood.

I had submitted some drawings of the house that would be applicable on this lot, it fits into the neighborhood, in fact, across the street and down a little bit from this lot is a house that looks similar to that, so it wouldn't be a sore thumb to the neighborhood, it would actually be part of the neighborhood. All of the utilities for this lot have already been brought to the lot, electric, the water and the sewer so there would be no excavation in the street area because the lot already has service.

Last Saturday I took a portion of the day and went to all of the homes along Brooks Edge Drive and talked to the home owners there to see what their opinions were, as far as putting a house on this property. Realistically none of them had a serious problem, I mean, given a choice, would you like this lot to stay as grass or would you like to see a house, you know, some of them chose the grass, but it wasn't a case that they had a reason that they didn't want a house there, it was just that, give me a choice, I would take the grass. As I said, the house will be compatible to the neighborhood. One of the, there were three or four e-mails that were sent to the Town Planner, and one of the e-mails was from a resident on Brooks Edge Drive, and when I talked to him, he basically didn't have a problem after I showed him what the house was going to look like, what my plans were, you know, he said it certainly wouldn't be a detriment to the neighborhood to have this house there. I also went to the

neighbor on Kowal Court whose house and yard is right behind this potential lot, and I talked with him, and mentioned that the location of this house was, as shown on the plot plan, was on the lower portion, of the lot. The lot has a lot of plane through it, and the elevation, but the house is put down at a lower point on the lot, so it wouldn't affect the house on Kowal Court that tremendously. I mean, obviously there would be a house there, but it wouldn't be like it was right in his backyard. Currently the trees that are on this property, he is utilizing as part of the backyard, and with the construction of the house, I assured him that I would not cut the trees down or take the trees out of the way, I would leave them there as a buffer. There weren't any more crisis that came up. As I said, I talked to the people on Kowal Court, the two houses above it. One was home, and I spent some time with him and the other, the adjacent house farther down on Kowal Court, he wasn't home. I think a subdivision request you included a lot, the proposed lot and the location of it, and it also shows the adjacent lots. If we were to look at the lot on Kowal Court, there is some question about the square footage of this lot. This lot is like 5140 square feet, and the lot on Kowal for example, that lot is 4235, the lot next to it is 4551, this was a planned unit development that was developed probably about twenty years ago. I don't know if it is still part of the Zoning Regulations or not, but these were small lots which they ended up calling patio houses. Some of the developments in Newington, they abutted them to each other, so there was a common wall, and each house was abutted so it was like a duplex. These houses here were separated, so each house was an individual house which fit in more easily in the terrain of the site. They all have basement garages, and I think it would compliment the neighborhood. It would turn around and do something, the property has been sitting there for twenty years and who knows what it is going to be in another twenty years, so if a house were put on it, then a home owner would be responsible to maintain it, it would generate taxes for the Town of Newington, and obviously, like I said, it fits in.

Vice-Chairman Camerota: Craig, do you have a comment?

Craig Minor: Well, the same as the last meeting, the Town Engineer had some major concerns with the drainage design, but the major issue is the lot size, is the fact that the lot is only 5,139 square feet. At the time that the rest of the subdivision was approved, at that time, 4500 was the minimum lot size, so that is why, as you say, there are a number of lots that are in the 4,000 range.

Frank Kowal: The same size or smaller.

Craig Minor: Right. But currently, in 2013 the minimum lot size for a patio house in that zone is 6,000 square feet, and your lot does not have 6,000 square feet, so I don't see any legal basis for the Commission to be able to approve it. All of the merits are, well you can speak for or against the application from an engineering point of view, but the basic fundamental requirement that the lot be 6,000 square feet, for me that is the basic issue. That is the basic fundamental issue.

The remainder of the discussion of Petition 14-13 was suspended due to the ill Health of the petitioner. The discussion will be continued to the June 26, 2013 Meeting.

Vice-Chairman Camerota: Just for the record, we are going to continue the discussion on Petition 14-13 until the next meeting.

Commissioner Aieta: Do you need a vote?

Craig Minor: It might be good to have it on the record because of the issue of the 65 day.....

Commissioner Aieta: He did indicate that he would.....

Craig Minor: Yes, Madam Chairman, the applicant did state in his letter of June 12, "that if additional time is necessary to evaluate my position, I have no objection to granting an extension. Signed, Frank W. Kowal."

Commissioner Aieta: In light of the letter that is presented and the circumstances of the meeting tonight, I would move to make a motion to continue this until the next meeting. The motion was seconded by Commissioner Anest. The vote was unanimously in favor of the motion, with six voting YES.

B. Petition 32-13: TPZ Approval Section 3.23.1: Accessory Outside Use for Fireworks Tent Sale at 56 Costello Road (T-Bowl Lanes.) Keystone Novelties, LLC applicant CMB Inc., owner, Brian Frederick, 201 Seymour Street, Lancaster PA, contact.

Vice-Chairman Camerota: Is the petitioner here? Please state your name and address for the record.

Keith Lambert: I'm Keith Lambert, area supervisor, 32 Cirro Road, North (inaudible).

Vice-Chairman Camerota: Okay Mr. Lambert, go ahead.

Keith Lambert: Basically you have the package, and there was a fire works tent in there in the past, I believe TNT had been there a couple of years back, basically what we want to do is to sell the fireworks from our tent. We already have the Fire Marshal's approval based on layout, he still does have to do an inspection to make sure that we have proper signs, fire extinguishers, we do have all of the information we need. Are there any questions you might have?

Vice-Chairman Camerota: You have scheduled from June 26th through July 6.

Keith Lambert: Correct.

Vice-Chairman Camerota: And your hours of operation?

Keith Lambert: Nine a.m. to nine p.m., every day except for the 3rd and 4th, it would be nine a.m. to eleven.

Vice-Chairman Camerota: Staff comments?

Craig Minor: Mr. Lambert, could you talk a little bit about the sign sketches that you included in your application? My concern when I saw them, and I just spoke with the ZEO, and I don't know if he discussed it with you or your associate, but you plan was not to put signs on the ground, your plan was to put some signs on the canvas tent itself. Could you just describe that a little bit?

Keith Lambert: Yes, all the signs will be on the tent itself. I may have a.....

Commissioner Anest: Are they inside the tent, like buy one and get one free.....

Keith Lambert: Well, there will be little signs inside the tent as you are going around....

Craig Minor: Oh, they are inside the tent?

Keith Lambert: Well they are two different things, I'm addressing her question, the smaller, like price tag signs, and what the items are, those will be on the table themselves, and there will be bunting around the tables with the company name, but the signs that we have in the sketch will be on the outside of the tent, hanging from the edges of the tent. We won't be plastering signs all over the city or anything like that, we don't operate that way. This is kind of a layout of the inside and outside of the tent.

Commissioner Aieta: Have you ever been in Newington before selling fireworks?

Keith Lambert: No, we have about forty other locations in Connecticut.

Commissioner Aieta: So you have never come before us asking for permission to have it.

Keith Lambert: No.

Commissioner Aieta: We have had several different companies that have come before the zoning board looking for approval, this type of approval. Over the years we have had problems with the companies putting their signs along the Berlin Turnpike, not even on the property that they are situated on. We do not allow any signs on the Berlin Turnpike. Whatever signs, if the Commission approves this with the signs on the tent, that's one thing, but we don't allow lawn signs or sandwich signs or anything else promoting. In the past we have had them 300 yards in this direction of the site, not even on their property, in the state right of way, which is illegal. We are not looking to have that. There are some companies that we will not allow to have, to come back into Newington.

Keith Lambert: We were in Manchester recently and we are aware of that situation, we follow, whatever the rules are, if they allow the signs, then we put them out, if they don't allow them.....

Commissioner Aieta: We don't allow them.

Vice-Chairman Camerota: Any other Commissioner comments? What is the will of the Commission, do you want to move this forward to Old Business tonight and vote on it, or, the next meeting in on the 26th.

Commissioner Aieta: We should move it to Old Business and act on it tonight.

Keith Lambert: Yeah, I was told by I think, I spoke to Craig earlier today and he said.....

Craig Minor: Yeah, I can deliver this Commission, right.

Vice-Chairman Camerota: Thank you, and we will vote on it in the Old Business section of our meeting coming up shortly.

Keith Lambert: Thank you.

C. Letter from Community Renewal Team regarding possible Assisted Living Facility.

Vice-Chairman Camerota: The next item on the agenda is the letter from the Community Renewal Team, Craig do you want to explain?

Craig Minor: Yes, and Mr. Aheart is here, as he works his way up to the table, he did provide me with a letter just the other day which I put in front of you tonight. Apparently the VA is in fact officially incorporating some sort of a child care service endeavor as part of their operations.

Lamont Aheart: Thank you Madam Chairperson, Commissioners. My office address is Market Street in Hartford, and I'm here tonight representing the Community Renewal Team. I'm construction manager for the Veterans Landing project. With me tonight is Mr. Gus Keaton-Longo, vice president of senior services, and he has some information that he is going to hand out, and a board that shows the child daycare that we are considering. Also, Emily Montgomery who is the Director of our Early Childhood Education Department.

Craig Minor: Mr. Lamont, if I could just interrupt for a second. One Commission note, it's not that you are being asked to approve it tonight. Mr. Aheart is just asking that you reach a finding that it is approvable, that it is within your authority to approve, if after the full public hearing you feel it is something that you want to approve, so don't feel that you are being asked to approve it tonight, you're only being asked to rule if it falls under your regulations, which only you can interpret, so that he why he is before you tonight.

Commissioner Anest: Are we going to hear everything tonight, or.....

Craig Minor: No, the only issue is, is child care something that is allowed in the PL Zone if operated by.....

Commissioner Aieta: So we don't have to go through a full blown site plan. We don't want to do that twice. We're going act on, we're going to advise you if this is something that falls under our regulations that you could bring forward an application. We don't want to get into, we just need to know if we have the authority to approve in this zone.

Craig Minor: Exactly.

Lamont Aheart: What we would like to do is show you what the facility looks like, I don't know if any of you have seen it, but you can look at the board, and we have a handout on the whole facility which is as assisted living facility.

Commissioner Aieta: We have no objection to that, but we don't want a full blown, just give us a brief overview real quick, give us the handout, we'll make a determination if it falls under our zoning and if we have the authority to treat it that way, and then you will come back and do a full presentation with the drawings and everything.

Gus Keaton-Longo: This is Veterans Landing. This is a facility for veterans and their spouses, 103 apartments, and within this plan, this is the front entrance, we are thinking of putting a child care facility in here. We have found that ten percent of the appointments that are made for medical services around the country are being cancelled because of child care issues, so we are doing a pilot to figure out, there are actually two going on, one in New York and Washington State, to figure out whether or not a drop in center for child care would help, especially women veterans be able to keep their appointments, so we were thinking of putting together a child care center with a capacity of two classrooms with fifteen kids at the maximum each, hovering around twenty kids, for drop in slots for the kids, and also on the campus, there are 500 hundred people who work there, and (inaudible) so we are in process of putting the full model together, and we are in the drawing stage of this, and we are trying to go through this process, I do have a handout.

Commissioner Aieta: Michele, if the Planner could explain what section of the regulations it falls under and give us some background, just some information so that we can make a determination of whether we can do this or not.

Craig Minor: Yes, the property is in the PL Zone, which stands for Public Land and the zoning regulations say that, and I'm going to read a long sentence, "lands and buildings owned by a governmental unit, a department of a governmental unit, or a private or semi-private owner who furnishes a public service or utility; and any use which may be permitted in the charter of the owner, provided that industrial, business and/or residential uses shall be limited to and used exclusively by and for the requirements of the owner. All other uses are prohibited." That's it, that's all it says.

Commissioner Aieta: Pretty vague.

Craig Minor: Yes it is, now I don't think it's a stretch to assume that the VA, that part of the VA's mission is to provide housing for veterans. That seems a no brainer. Where I kind of came to a stop was when I was asked to prepare a letter saying that the child care is a permitted use in that zone, and I felt that was not something that I was comfortable saying in a letter, that only the Planning and Zoning Commission can rule if it is permitted or not.

Commissioner Aieta: And the zone is a public land zone?

Craig Minor: Yes, that's the name of the zone, PL.

Commissioner Aieta: The PL Zone.

Craig Minor: I would say, based on what we heard tonight, that child care is part of the Veterans Administration mission, so I personally am satisfied that they have addressed that.

Vice-Chairman Camerota: Well it seems like they have made an attempt with the veterans, in this modern day, where someone might be taking care of the grandchildren while the parents work, so.....

Commissioner Aieta: In light of the loose language in the regulations, I think we can interpret it that we have the right to look at it, and just looking at it briefly, it seems to fall right into the plan of the rest of the, on that piece of property, it's a government agency, the Community Renewal Team is a non-profit, long standing company. I'd say we go forward with it.

Vice-Chairman Camerota: Then we will be putting you down for a public hearing in the future. Thank you.

VIII. OLD BUSINESS

Petition 28-13

Special Exception (Section 3.15.3: Restaurant)

32 Fenn Road

Baires LLC, applicant.

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

FINDINGS:

1. The amount of parking required for the proposed restaurant is not more than the amount provided by the previous retain tenant.

CONDITIONS:

None.

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

Petition 32-13

**TPZ Approval (Section 3.23.1: Accessory Outside Use) for Fireworks Tent Sale
56 Costello Road (T-Bowl)
Keystone Fireworks, applicant**

Commissioner Aieta moved to approve, with conditions, Petition 32-13: TPZ Approval Section 3.23.1; Accessory Outside Use) for Fireworks tent Sale at 56 Costello Road (T-Bowl Lanes) Keystone Novelties, LLC applicant, CMB Inc, owner, Brian Frederick, 201 Seymour Street, Lancaster PA contact.

CONDITIONS:

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

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

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING:

- A. Petition 33-13: Zone Change Section 7.6.1) to apply Willard Avenue Development District to the existing R-12 property at 240 Cedar Street. Premier Partners & Associates LLC, applicant; Robert Nagy owner; Patrick Snow, 110 Court Street, Cromwell CT, contact.
- B. Petition 34-13: Special Exception (Section 3.7: Special Exceptions in the R-12 and R-7 Zone) for Multi-Family Use at 240 Cedar Street (Kellogg Farm Apartment) Premier Partners & Associates LLC applicant; Robert Nagy owner, Patrick Snow, 110 Court Street, Cromwell CT, contact.

Craig Minor: Premier Partners LLC, which is Pat Snow owns the house at 240 which is right next to the large house at 711 Willard, which was approved by the Commission a number of years ago for conversion to an apartment under the Willard Avenue Development District regulations, so Mr. Snow is now asking that the newer house, the one that was built at 240 Cedar Street have the Willard Avenue Development District overlay apply to it, which is a zone change, and simultaneously with that, he has applied for a Special Exception to put three apartments off the back of the house at 240 Cedar Street, and there is a site plan associated with it, which I have, but of course doesn't require an extension of the public hearing. I have it with me if someone wants to see it or not.

Commissioner Aieta: You made a comment in your report that you felt there was a different way to do this.

Craig Minor: Yes, and I don't know how much the Commission wants to go into it, let me just say that I have exchanged several e-mails in the last twenty-four hours with the attorney for Mr. Snow, and they want to proceed with their request for a Special Exception under Section 3.7, and that is their prerogative, so.....

Commissioner Aieta: Just explain to the Commission the difference between what your opinion was on it, or your.....

Craig Minor: My concern. My concern is that I don't see anywhere in Section 3.7 that allows the owner of a parcel in the R-12 Zone, that's only about an acre or two big, to put apartments off the back of it. The minimum lot size is ten acres. When I brought that to Mr. Snow's attention, and his attorney they then flipped to the 6.11, the Willard Avenue District which says you can have an existing house and add on to it, but that rule says, not more than twenty percent. When I pointed that out to them, they said, yes, but under 3.7 we can have, and I said, I agree with everything that you are saying, but you haven't pointed to a specific regulation that gives the Commission the ability to give you permission to add on, and I, encouraged several times to revise the application, and they want to proceed with the application as submitted.

Commissioner Aieta: We can't act on it under that, you can only come to one conclusion.

Craig Minor: Denial.

Commissioner Aieta: That it can't be done, I don't understand why they don't, because what you are saying, come in under the special zone right.

Craig Minor: Well, actually, I'm not telling them where, how to apply, because I can't find anywhere in the regulations, I'm putting the burden on Mr. Snow's attorney to tell me where in the regs you can do this, and they have not done that.

Commissioner Aieta: So they are picking this regulation which obviously we can't, and they insist on coming in?

Craig Minor: Yes they do. Schedule the hearing.

Commissioner Anest: I just have a question. We've had issues before when they come in on a Special Exception and then come in with a site plan. I think they should be two separate presentations. In this last one, we were discussing the site plan with the Special Exception and then that opens it up to the public, so we really need to be clear when we do this, that they are two separate entities, and even if they are talking about the Special Exception, they don't have to go into site plan with the Special Exception.

Commissioner Aieta: And then what happens is that the Special Exception is not, we can't come up with things we can approve, and the rest of it is moot, so we really shouldn't be looking at that, we should take on thing at a time, in sequence, and the sequence is that we do the Special Exception first, then if that is approved, the site plan because we might now have to do the site plan if we can't find a way to do it.

Craig Minor: Right, that's why it is common for an applicant to submit a special exception application first, and not even submit a site plan.

Commissioner Anest: The problem is, they start talking about the site plan during the public hearing, and then the public starts commenting.....

Commissioner Aieta: We've got to keep it separated. I think we could get in trouble the other way.

Vice-Chairman Camerota: Any other petitions?

Craig Minor: No.

X. TOWN PLANNER REPORT

A. Town Planner Report for June 12, 2013

Craig Minor: Zoning Enforcement Issues Raised at Previous Meetings: a. Pickup truck parts in front of 127 Fenn Road. The owner has failed to remove the items as he promised; therefore a zoning citation has been sent to the owner by certified mail earlier last week. We'll see what it does.

Sign Enforcement: The ZEO conducted another "surprise inspection" during the evening of Friday, May 31 and during the day on Sunday June 2nd. He cited several merchants on the Berlin Turnpike and Willard Avenue, and elsewhere. During the week ending May 31st, he removed eight illegal temporary signs.

Old Performance Bonds held by the Town: I prepared an updated list of outstanding bonds. There are at this point now four that have inspected by the Town, are not in compliance, that are of various ages, 2002, 1995, 2006, and 2007. I'm going to send a letter to all four of those owners, some of them I have been speaking to more recently, some of them will be wondering where I came from all of a sudden, but a standard letter warning them if they don't make the site improvements as they were directed to do years ago, that we will call their bonds and we will hire contractors to do the work. I'll discuss this with the Town Attorney but he'll probably agree that we should take, I'll talk with him before I do this, but I'll come back next meeting and confirm that I spoke with the Town Attorney and he agrees with our course of action, but that is what I'm proposing to do.

Commissioner Aieta: Do you think you have enough money on some of these to.....

Craig Minor: Might not, we might be able to do part of it, but we'll use all of the money we have to do as much as we can.

Commissioner Anest: (Inaudible)

Craig Minor: Waverly, which one is that?

Commissioner Anest: 25.

Craig Minor: \$5,000, that's a fair amount of money to simply jack hammer a swath of blacktop and throw down some grass seed. I think we could easily do that for \$5,000. I'm sure the homeowner won't like it, and I'm sure when we show up with a crew, at that point the home owner will say, all right, I'll do it myself and get my \$5,000 back, but I think that's what it is going to take, showing up on the doorstep with a construction crew.

Commissioner Aieta: You've had discussions with this owner, on Waverly?

Craig Minor: No., I'm working on letters and memo's between Ed Meehan and the owner.

Craig Minor: But I will send out a letter to the owner myself.

Commissioner Anest: But it's not the owner who has the \$5,000.

Craig Minor: Right, so that is going to take some cooperation from the Finance Department because their policy is to only release bonds to the party that posted the bond, which has been the problem in a couple of the cases, where the party that posted the bond isn't involved in the situation any more. There are other people involved. That's one of the kinds of things that I will talk to the Town Attorney about, which is I guess why these have been hanging around all these years, because they are not easy, and Ed left them for me, thank you Ed.

Back to my report, Modern Tire: I have nothing to report except, well the trial date has been set for June 26th, Thursday the 26th, down in Stamford.

Commissioner Aieta: Why did they change the venue from here to Stamford?

Craig Minor: I believe the court system did that, I don't think.....

Commissioner Aieta: Oh, no one asked for it?

Craig Minor: I think the judges.....

Vice-Chairman Camerota: I thought Judge Berger was in charge, and he's in West Hartford.

Craig Minor: I don't know why Stamford.

Vice-Chairman Camerota: I thought Stamford was short on judges. Who knows?

Craig Minor: Newington Junction Planning Study: The consultants hired by CRCOG submitted some preliminary sketches of the area. The oversight committee which consists of Mike, the Economic Development Director, Andy Brecker, Terry Borjeson of the Town Council, and I had suggested that Commissioner Hall be added to the committee. I know that Chairman Pruett was working on that before he left, had you talked to Cathy about that?

Vice-Chairman Camerota: I did, and she agreed to be appointed if everyone is in agreement, I was waiting to talk about it first, but she is willing to serve on that.

Craig Minor: I will brief her on what happened at that meeting. Finally, the Low Impact Development project, the LID committee has scheduled a "Public Information Meeting" for Monday, June 17 at 7:00 p.m. in this room to explain the benefits of LID to the public and to receive feedback. The flyer for this meeting has been posted on the town website, and sent to members of all of the land use boards, and the Town Council. I sent a press release to the local newspapers. The Newington Crier had an article on Friday, and hopefully the Hartford Courant will have something on it also so that people can come and give their thoughts on this process. This is not going to be quick, in fact, once the LID committee comes to some, at some point they are going to bring it back to the Commission because it's going to be the TPZ zoning regulations and subdivision regulations that will probably be amended to implement some of these techniques for future development, so sooner, rather than later, the full Commission is going to be brought into it, but at this point, it seemed more workable to have a small committee which includes representatives of Wetlands and representatives of TPZ and representatives of, who else is on it, oh, that's it, the TPZ, the Conservation Commission, the Town Engineer and me. That's all I have for a report tonight.

B. Performance Bond Reduction at "Gateway Plaza"

Craig Minor: Mr. Brown has completed a significant amount of work, and he requested a bond reduction. I asked the engineering department to go out to confirm how much work has been completed and whether it is satisfactory, and I got an e-mail from Mr. Hinckley of the Engineering Department. The one in your package said June 10th, the inspection was on June 3rd, and I do have a corrected report stating June 3rd. The staff is recommending that the bond be reduced from \$237,000 to \$74,000 and under the Zoning Regulations, only the board can reduce the performance bond, so I'm recommending that the reduction be approved by the board.

Commissioner Aieta: Can you just give us an update on where that third building is supposed to be? Is there any movement on that? He has a pretty good sized area blocked out there.

Craig Minor: Let me think.

Commissioner Aieta: The parking is a little tight.

Craig Minor: I did speak with Mr. Brown about that. The building was originally approved as a bank, as I recall, and the tenant that he is now looking at I think is another restaurant, I shouldn't say that, I'm not sure, but he is very much aware that if it is anything other than a bank, or a financial institution, or anything thing that requires a different amount of parking, that we are going to make sure that the new tenant, that there is sufficient parking at the shopping center who ever the different tenant is. That will not have to come back for your, well, if it's a restaurant it will, because a restaurant requires a special exception, but if it's a bank or some other permitted use, it won't necessarily come back to you. That's all I know about his plans for that site.

Commissioner Aieta: We approved it as three buildings, and we only got what we have there now. I'm just concerned about the time period, about how long it is going to take before, because I think they are encumbering some of the parking there too, the way that they have it.....

Craig Minor: The construction?

Commissioner Aieta: Yeah, you go through there, and I don't know how many people on the Commission have gone through, but it's tight, and it's busy, which is good, we want the businesses to succeed, but if there is not enough parking, it's going to be tough for the businesses there. With DiBella's opening today, there was very little parking that wasn't used.

Craig Minor: Okay, I'll talk to Mr. Brown.

Commissioner Aieta: Yeah, we'd like to move it along, we'd like to get it, we'd like to get it finished. We don't want to see that thing stay like it is for a year, two years, or.....if it's going to be something of a long duration, maybe we would want him to temporarily do a binder course or something to start using it as parking. I don't know, that's just my opinion, maybe other Commissioners have a different opinion about it, but I know the site is a little tight.

Vice-Chairman Camerota: Anyone else have a comment about the reduction of the bond?

Craig Minor: Could I ask that there be a motion?

Commissioner Aieta: So move.

Commissioner Anest: Second.

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

Craig Minor: Thank you.

XI. COMMUNICATIONS

A. E-mail from Town Attorney regarding optional public hearings

Craig Minor: I have an e-mail from the Town Attorney confirming that the Commission does have the authority to hold public hearings if it feels that it is in the public interest, and actually this is relevant for tonight, because when Victory Gardens comes in for their site plan approval, there is no public hearing required in the PL Zone, which I think is kind of interesting, but, and I don't know if you remember, but if you do think back to when Victory Gardens was reviewed by the Commission, technically there was no public hearing, there might have been public input, but there was no public hearing, so there is no requirement for a public hearing with Veteran's Landing either, but it is at the Commission's discretion if you want to.

Vice-Chairman Camerota: If I may, Attorney Boorman's e-mail says regarding any subdivision approval, it is limited to subdivision? This could open a serious can of worms in regards to one application that has been here before.

Craig Minor: That's an excellent point, and you're right in that Zoning issues are controlled by a separate section of the statutes than subdivisions, so good point. The answer would not necessarily be the same. If you like, and I won't if you don't want me to, but I could ask Attorney Boorman whether his opinion applies to a site plan approval also. If the Commission has the authority to hold a public hearing on the zoning issue, or I'll not ask. You're a combined planning and zoning commission, but the laws are written as if you are separate. There is one section of the law that is talking about the planning stuff that you do, and there is one talking about the zoning things that you do, and you tend to merge them, because you are a planning and zoning commission, but legally half of your powers come from one chapter of the book, and half your powers come from a different chapter.

Vice-Chairman Camerota: I just want to make sure that it is clarified, because of the e-mail which talks about a sub-division which is what we had asked him for, to talk about.

Commissioner Aieta: The problem that I have with it is what criteria the Commission uses to, there is not criteria, there is no guidelines, it's too vague, and I could see it getting unwieldy, I mean, you know, like this Kowal thing, that's where it came up, I wouldn't want to see that opened up to a public hearing. I don't believe it is required on something like that. I don't know, we've never done it in the past, on site plans, had public hearings on site plans. We've never done it, I mean a subdivision.

XII. PUBLIC PARTICIPATION (for items not listed on the agenda; each speaker limited to two minutes.)

None

XIII. REMARKS BY COMMISSIONERS

None

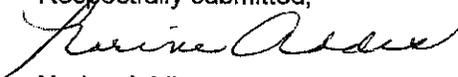
XIV. CLOSING REMARKS BY THE CHAIRMAN

None

XV. ADJOURNMENT

Commissioner Aieta moved to adjourn the meeting. The motion was seconded by Commissioner Anest. The meeting was adjourned at 8:20 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary