

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting and Public Hearing

June 26, 2013

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 Cathleen Hall
Commissioner Stanley Sobieski
Commissioner Frank Aieta-A
Commissioner Audra Ekstrom-A
Commissioner Kenneth Leggo-A

Commissioners Absent

Commissioner David Lenares

Staff Present

Craig Minor, Town Planner

Commissioner Ekstrom was seated for former Chairman Pruett and Commissioner Aieta for Commissioner Lenares.

II. APPROVAL OF AGENDA

Craig Minor: Madam Chairman, two changes, I recommend that you delete from Old Business 28-13, that was approved at the last meeting, I just remembered that, it's already done, so you can take that off, and I recommend that you add a new item under Petitions for Public Hearing Scheduling, Petition 38-13, Special Exception to serve alcohol at Bonefish Grill. They didn't realize when they applied, and I didn't either because I hadn't been here that long, but they actually need a separate approval to be able to sell liquor at a restaurant. Chipolte came in a couple of months ago, to actually start this process, and they just realized this a couple of days ago, and asked that it be added to the agenda so the hearing on it can be at the next meeting.

Chairman Camerota: May I have a motion to approve the changes as presented by the Town Planner.

The motion was made by Commissioner Sobieski and seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with six voting YES.

III. PUBLIC HEARINGS

A. 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.

Chairman Camerota: Is the petitioner here? Come forward, have a seat and state your name and address for the record.

Chris Gueret: My name is Chris Gueret and my business is at 56 Fenn Road.

Chairman Camerota: And what is it that you are looking for tonight?

Chris Gueret: I'm looking to place a sign, a double sided sign, eight by eight to increase the visibility of our location. We are located behind the Mobil Station and not on the main road.

Craig Minor: I received an e-mail from Mr. Gueret earlier this week, and the copy is in front of everyone, but I will read it into the record. It's a brief explanation of the request. "Wayside Fence Company of 56 Fenn Road is looking to install a new sign to increase our visibility and to let the public know that we are open for business as our physical location is not visible from the street. We propose installing an 8' x 8' two sided sign constructed of northern white cedar stockade fence panels and white Azek lettering. The sign is to be hung on 3" S40 industrial grade galvanized pipe set in concrete. The location of the sign is to be 10' back from the curb on Fenn Road and 2' back from the pavement on our driveway so that the view of oncoming traffic is not obstructed when exiting the driveway. Thanks, Christophe Gueret, General Manager." The only thing that I want to add is that the plan that was originally submitted which is in your agenda package, which shows that the fence, which actually is already up, is actually off-site. It shows on the neighbor's property. So I pointed out to the applicant that the sign has to be on their property, and they understand that, and I think that Chris tried to allude to that in the last sentence of his e-mail, when he said the location of the sign is two feet back from the curb on Fenn, and two feet back from the pavement on our driveway, so it will be on their property. If the Commission does approve this, I would recommend that that specifically be a condition of approval, that they submit a survey showing that the sign is in fact on their property.

Chairman Camerota: Do you understand that Mr. Gueret? You have a plan for moving the sign right? Commissioner comments?

Commissioner Hall: I just have a question. Currently the sign, which I don't think is two sided, the one that is sitting there now?

Chris Gueret: That's correct.

Commissioner Hall: Is in a north/south orientation? It looks like this will be turned so it is east/west?

Chris Gueret: It will be turned ninety degrees.

Commissioner Hall: And it will be two sided? That's what I got from this, I just wanted to be sure. Thank you.

Commissioner Aieta: For the Planner, how did you determine the square footage allotment for the sign?

Craig Minor: Oh I didn't. I rely on the Zoning Enforcement Officer.

Commissioner Aieta: What was the criteria that he used? There is no frontage on Fenn Road.

Craig Minor: The criteria is the width of the building, the front wall of the building, even though it's the rear lot, the building is, I don't know how many feet wide, so that is the basis for how much signage a piece of property can have. I can ask the Zoning Enforcement Officer to confirm that if you would like, or make it a condition of approval.

Chris Gueret: The building is about 93 feet.

Commissioner Aieta: And it's one square foot for.....

Craig Minor: Well yes, but there is a total that they are allowed for the entire property combined and whatever wall signs, which they currently have, the additional signs can't go beyond their allowance for signs. They can spend the allowance however they want, but it can't go beyond, based on that 93 foot figure, but I don't know exactly....

Commissioner Aieta: Is there a sign on the building?

Craig Minor: I don't know. There might be.

Commissioner Aieta: Is there a sign on the building?

Chris Gueret: There is, it's (inaudible)

Commissioner Anest: If you take that existing sign, that existing sign is kind of big, and I would want to make sure that we put it together with any signage on the building, and I also would like to know, what the face of this is going to be like? Is it going to be two poles in the ground, landscaping.....

Chris Gueret: That's correct, the sign will be a few inches off the ground, so we will be able to mow.

Chairman Camerota: Any other Commissioner comments or questions?

Commissioner Anest: Is two feet enough back from the roadway?

Craig Minor: Well, it's going to be ten feet.....

Commissioner Anest: Oh, right.

Commissioner Aieta: How does he get, he has frontage on Fenn Road, the suggested right of way?

Craig Minor: If you look at the site plan.....

Commissioner Aieta: Yeah, I see it, I'm just trying to figure out how he gets frontage.....

Craig Minor: If you look towards the back of the lot, you will see along the front wall the number 97.3, 97 feet, 3 inches, that's the number that the amount of signage that they are

based on, and if there is already any signage on the building, that counts against that amount, and I don't know, so I will confirm that.

Commissioner Aieta: Where is the property line on the north side?

Craig Minor: On the north side, well, it goes off the map. I have the original if you would like to see it, but it's a long narrow flag lot.

Commissioner Aieta: But where the sign is going, it's right there, and he is turning it.....

Craig Minor: Right, it's perpendicular to the street.

Commissioner Aieta: It's on their property? I don't understand how that works.

Craig Minor: It is now, not on their property. But, if approved, they will have to move it to that very narrow area between the property line and the existing bituminous curb, they will have to thread the needle.

Chris Gueret: That's why it's two feet off the ground....

Commissioner Aieta: It won't obstruct the sight line of someone coming out of the drive, ten feet back.

Chris Gueret: We measured with our largest truck, and you can see in both directions.

Commissioner Aieta: It's for your own safety.

Chris Gueret: And other people as well.

Commissioner Anest: How high is it? Is it the exact same height?

Chris Gueret: Yes, exactly.

Chairman Camerota: Are there additional Commissioner comments? Mr. Gueret, since this is a public hearing, we're going to have comments from the public, and you can come up with rebuttal if there is any need. Is there anyone from the public wishing to speak in favor of this petition?

Bob Trumbull, 1515 Willard Avenue: I'm the owner of the Mobil Station in front. I'm in favor of this, it's a really nice sign, and they are jammed up in back there where they have poor visibility. The only thing I would be a little cautious on is if that sign is back far enough so there is not a problem with visibility coming out of the gas station. I don't know, I didn't check it out. I have no problem with the sign, my tenants haven't posed any questions.

Chairman Camerota: Thank you Mr. Trumbull. Is there anyone else from the public wishing to speak in favor of this petition? Is there anyone from the public wishing to speak against this petition. What is the pleasure of the Commission? Shall we keep it open or do you want to move it to Old Business.

Commissioner Aieta: Probably keep it open until we get the calculations, and then we can move it next meeting.

Chairman Camerota: Do you want to have more information from the petitioner on where it is going to be?

Commissioner Aieta: I think we need a little better site plan, we need the Zoning Enforcement Officer to give us what the total square footage is. He went from a single side to a double side, that doubles the square footage.

Chairman Camerota: I agree, and I think a site plan showing the location would be.....

Commissioner Aieta: With the property line. He doesn't have to have this.....

Commissioner Leggo: A little more of a blow up view of that area.

Commissioner Aieta: Yeah, just the front area so we can see the street line, the property line, and how he is going to get it on his own property.

B. 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.

Chairman Camerota: Is the applicant here?

Mr. Caglar, 360 Lidell St, New Britain: We applied to open a frozen yogurt store. It was office space and so we need a zone change for this. We discussed with Mr. Minor since we had a larger public space but there is public parking near the restaurant that could make the difference even if we require more parking, so we just want to see if that would be okay.

Chairman Camerota: So you are asking for less parking spaces.

Mr. Caglar: Well, I think if we had the parking spaces as previously used, eight parking spaces for the office space which would be enough for us, since we have public parking.

Chairman Camerota: Craig?

Craig Minor: Mr. Caglar touched on the only issue that I had which was the amount of parking. I put a memo in front of you that I was working on today. There is definitely a shortage of parking on paper because of the amount of parking that your regulations require for a restaurant, and I couldn't find any other category to put this in, other than restaurant. As Mr. Caglar said, and I noted in my memo, the property is in downtown Newington and it's an easy walk from the municipal parking lot. A lot of the customers will probably be walk-ins, and not taking up a parking space, and I think it's different enough from a conventional restaurant, I think it would be reasonable for the Commission to consider using the category in the Zoning Regulations for other use, and then when it is another use, you can determine how the parking is required, I suggest that you find that they need eight parking spaces, which is the amount that the previous tenant had.

Chairman Camerota: So you are suggesting that this should be a Special Exception under Other Use.

Craig Minor: Not a Special Exception, I'm suggesting that you use the regulation if you find that this use is not a normal restaurant, but a different kind of restaurant and therefore you have the authority to reduce the amount of parking, on-site parking that they're required.

Chairman Camerota: And that would still be under 3.15?

Craig Minor: Oh yes.

Chairman Camerota: Commissioner comments?

Commissioner Hall: I think I would like to view this as similar to a similar store that is across the street, Carvel's which is an ice-cream, frozen, whatever soft serve, and I doubt that they have eighteen parking spaces, this might be a little less, but not by much, and certainly history has proven that that is a majority of walk-up trade. So, I see this as being very similar, within five hundred feet of it, so I would be willing to waive, or overlook, or whatever you want to call it, the parking regulations because I think the use would dictate more than just our straight rules and regulations. I think we need to use our heads on this.

Commissioner Aieta: The parking there, most of the parking is on the side of the building on Main Street, and there is some parking on the east side where Vito's is, and.....

Craig Minor: There is actually none on, oh, the Main Street side.

Commissioner Aieta: Yes, and then there is some parking in the back of the building. There is no parking on Cedar Street, so there is no parking in front of this building. So taking all of the uses in the building, what do we need for parking? We know that it is in the center and we take special consideration because of the municipal parking lot to reduce some of it because there is not enough parking most places.

Craig Minor: Well, the businesses that are there now, it's the Karate, there is a vacant space where this will go in, there's Vito's Pizza, around the back there is the comic book place, there's the Kakery, there's a barber shop, and upstairs, there's something, physical therapy.....oh, apartments?

Commissioner Hall: There are apartments upstairs.

Craig Minor: It's a real hodge-podge of uses, and I went out there and I counted only about fifty spaces which is not enough, but the building has been there since 1950 and we probably had different parking regulations back then so it's already a hodge-podge of uses which I would tend to think kind of compliment each other so there is never any shortage of parking because most customers are there different times of the day I would think.

Commissioner Aieta: I would say that we have the latitude to make special considerations because of the proximity to the municipal parking lot. Most of the businesses on Main Street don't have enough parking if you just consider the parking in front, so we've taken that into consideration on other applications that have come in, in the past, so I would say yes, there would be enough parking.

Chairman Camerota: Any other Commissioner comments? Here are my thoughts on it, it's also an area that is walkable, as opposed to something like on the Berlin Turnpike, so I think that should be taken into consideration when we're talking about the parking.

Mr. Caglar: I'm sorry, for the Commission, I'm, this is a frozen yogurt business and we would hope to open around the 4th of July, and we probably won't, but we would ask if you could approve this tonight?

Chairman Camerota: We'll take that under consideration. This is a public hearing, and I will see if there is anyone from the public who wishes to comment on your petition. Is there anyone wishing to speak in favor of this petition? In favor? Is there anyone from the public wishing to speak against this petition. Hearing none, what is the pleasure of the Commissioners?

Commissioner Hall: I would close it and move it to Old Business to vote tonight.

Commissioner Aieta: Because there was no opposition to the application and we went over the main issue, which was the parking issue, I think we could move it so that they could get going.

Chairman Camerota: May I have a motion to move this petition, and vote on it tonight?

Commissioner Sobieski moved to close the petition, and move it to Old Business. The motion was seconded by Commissioner Ekstrom. The vote was unanimously in favor of the motion, with six voting YES.

Chairman Camerota: We will move this to Old Business and we will vote on this tonight.

C. 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.

John Leary, 675 Berlin Turnpike, Berlin: Good evening, I'm here on behalf of the applicant. We have two applications here, one is for a zone change to convert an existing R-12 Zone to the Willard Avenue Zone District, and then the petition for the Special Permit under 6.12 for the multi-use Willard Avenue District. I have on the board up there, as you can see from the layout, we show the existing structure on the corner of Willard and Cedar Street, and then the subject property on Cedar Street on the left. The applicant is proposing the addition of two town house style units to the rear of the 240 Cedar Street property, and will have an attached breezeway to provide connection to the main structure. Additional parking is located to the rear, adding some additional parking to the overall use of the tenants there. We don't anticipate any major impact from traffic, we'll have maybe four additional cars located on the property at any given time, so we will have a minimum traffic impact here. What the applicant is trying to do is create a single center for multi-family properties to have consistent ownership, consistent management of the corner property. We have some elevations for the property that makes the property consistent with the architectural design of the property.

Commissioner Aieta: Madam Chairman, a point of order. If you could make your comments more specific to how this fits into the Special Exception. I don't want to hear about the site plan at this point. I want to hear about how you meet and fit into the Special Exception in an R-12 and R-7 Zone for multi-family units. I want to know how you fit into that, how you fit into the zone. I'm confused about this.

John Leary: I believe the application was amended to proceed under the Special Permit portions of the Willard Avenue Development District, Section 6.12.2. (B) for multi-unit purposes in the Willard Avenue overlay, so what we are trying to do is change the zone, make it one larger parcel under the Willard Avenue overlay and the Special Permit, Section 6.12.2 allows for multi-units or expansion of less than approximately twenty percent of the structures on the property. So the two units calculated out square footage would be less than the twenty percent of the overall newly expanded structures.

Commissioner Aieta: If we could have the Planner explain how this really works, so that we have an understanding if this fits into the zone. We need some clarification.

Craig Minor: Yeah, I think we should back up a little bit, and maybe the Commissioners missed that, but the applicants did revise their application. It's no longer for a Special Exception for Section 3.7 which is what was in your agenda package. They changed it too, and it's in the report that is on the table that I just revised today, the staff report about the Special Exception 34-13. They have modified their application. It's now for a special exception under Section 6.12.2 (B), which is the section of the Zoning Regs, the Willard Avenue Development Zone regulations that specifically says, that multi-family use is allowed with an existing structure, providing certain criteria are met. So that is the section under your zoning regulations that they are coming to you under.

Commissioner Hall: I read 3.7 so what I read is incorrect.

Craig Minor: That's correct.

Commissioner Hall: So, we maybe should back up. Is there a spot here where I can read, all I see is 34-13, Section 6.12.2. (B), and that's it.

Craig Minor: Multi-family use in the Willard Avenue, right.

Commissioner Aieta: They are looking for a zone change, right?

Craig Minor: Yes.

Commissioner Aieta: Shouldn't we be hearing the zone change first, and then the Special Exception second.

Craig Minor: That's a good question. Why are we doing the special permit first, and then the Zone change. That's a good question. It's kind of the opposite of the normal order. We're doing it in this order because I felt that the special exception is the more problematic, more complicated issue before you. If they don't satisfy you, and I know you can make an argument for either way, but I think a better argument is if they can't convince you that they comply with all of the special exception requirements, then the zone change is moot, they won't have a zone change because they didn't comply with the special exception requirements, whereas you could probably directly go through an exercise and feel that the zone change makes sense, but then get to the special exception request, and find that they don't meet the requirements, so in this case I felt, and I discussed this with either the previous Chairman or the current Chairman, that it makes more sense to discuss the special exception first, but not act on it, and then discuss the zone change, but then act on both of them after you have had full discussion on both of them on the record, so you don't get into the problem with Firestone, but I felt that the issues that are involved with the special exception, they were the better ones to talk about first, because if they can't comply with those conditions, then there is no point in proceeding with the zone change. Whereas, they could have satisfied your requirements for a zone change but then when you got to the special exception, it failed, so that's why we are doing it in this order.

Commissioner Aieta: Just one other thing for clarification, for the Commission, talk to us about the overlay zone for Willard Avenue, and how big it is and what it encompasses, and basically what criteria we are using to determine where it ends and where it begins.

Craig Minor: Oh, I would like the applicant to make that presentation.

Commissioner Aieta: Okay, someone has to.

Chairman Camerota: But that is the zone change.

Craig Minor: You're right. That question would probably be better held for the next item, for discussion of the zone change.

Chairman Camerota: Okay, any, I'm sorry, were you done Mr. Leary?

John Leary: Yeah, I know there is a little confusion here.....

Craig Minor: I'd like to make a couple of points that are in my memo here. There are two issues that I had with the Special Exception application. The language of the regulation, and it's in the memo that I gave you tonight, "multi-family use may be permitted within existing structures providing the requirements from table A are met. The existing structures may be expanded provided that expansion does not exceed twenty percent of the current square footage and such expansion be architecturally compatible with the existing structure. Open space areas equal to 2,500 square feet shall be provided for each multi-family unit created within an existing or expanded structure. So the first issue which I have underlined, may be expanded. I, in my opinion, the two dwelling units connected to the house by a breezeway, in my opinion, that's not an expansion. If they had added the units off of the back, that would be an expansion, but I don't think two units over here, connected by a breezeway is an expansion. The second problem I had with this was the regulation says that the expansion shall not exceed twenty percent of the current square footage. I think that means twenty percent of this building, but what the applicant has done, they have aggregated the two buildings and this addition is not more than twenty percent of the two combined, but I don't agree with that, but those are the two major issues that I have with this application.

Chairman Camerota: Commissioner comments?

Commissioner Aieta: I think they have already used their twenty percent on the other building. I mean, you can't keep adding on, and keep aggregating your twenty percent as you go along and continue to increase....

Craig Minor: I don't think the house.....

Commissioner Aieta: I don't know if there were additions or not. Were there additions?

Commissioner Anest: To the house, yes.

Craig Minor: Oh, I'm sure there were, but there wasn't a house at 240 Cedar Street at that time.

Commissioner Anest: My question is, those are two different lots, right?

Craig Minor: They are combining them.

Commissioner Anest: With the zone change.

Craig Minor: Well, even if it wasn't for the zone change, they are merging the two lots.

Commissioner Anest: They are going to merge them?

Craig Minor: Yes, that's part and parcel to this whole thing, that the two lots be merged, because a lot of what they want to do wouldn't meet requirements if they didn't merge them.

Commissioner Hall: I don't know if this matters, or if it is going to muddy the waters, but does he own that property?

Craig Minor: He owns 711 Willard....

Commissioner Hall: I know that, he has an option maybe on 240?

Craig Minor: The owner signed the application. We can ask what the relationship is, but the owner did sign the application, as owner.

John Leary: There is a contract to purchase 240 Cedar Street, to be continued.

Chairman Camerota: Any other Commissioner comments? Mr. Leary, do you want to reply to any comments?

John Leary: Yes, in regards to Mr. Minor's comments about the expansion, I don't know if there is anything in the particular code section to indicate that there has to be an attached expansion or detached, just that the unit can be expanded. In regard to calculation of square footage, we aggregated the square footage from all of the structures, there is not anything in the regulations that says it is limited to living area or anything like that, so we calculated it out based on the information from the Assessor's cards, calculating the average square footage of the structures, this expansion, this proposed expansion will be less than that, and again, I think our proposed use is consistent with a multi-family center that is going to be managed by one entity, controlled by one entity, it's going to be consistent ownership, so I think it's a great use of the property.

Commissioner Hall: Two buildings are shown, and you said two units. Did you mean two living units, or two buildings? Because it looks from our sketch, as if there are three living units in each building which would be a total of six.

John Leary: No, it would be two single family townhouses.

Commissioner Hall: So those are just two living units?

John Leary: Correct.

Commissioner Hall: So the sketches we have are incorrect, because we have three, and three doors.

Craig Minor: Right, you have the old plans. They submitted new.....

Commissioner Hall: It would be nice to have the new.....

Craig Minor: I have copies for you.

Commissioner Aieta: Craig, one other thing. Where does it end? This overlay zone.

Craig Minor: That would be a question for the record, so why don't you hold off.....

Craig Minor: Again, they didn't make it clear. They original submission was for three units, but then last week they submitted a revised plan showing two units.

Commissioner Hall: There are two buildings.

Commissioner Anest: What is the original house going to be?

Craig Minor: A house. A single family house.

Commissioner Hall: With two townhouses attached to it?

John Leary: Correct.

Commissioner Hall: By a breezeway.

John Leary: Yes.

Commissioner Leggo: The square footage, on B, we are talking 2,000. What is the square footage that you calculated on.

John Leary: The gross square footage was calculated on 12, 853 square feet. Twenty percent expansion of that would be 2,570 square feet, and what we are proposing is 2,200.

Craig Minor: And that was based on which buildings?

John Leary: The single family house, the corner structure and the garage.

Commissioner Anest: The garage is not living space.

John Leary: Well, there is a gray area.....

Commissioner Anest: Why are you connecting this with a breezeway and not connecting the buildings like you did with the other house.

John Leary: They could be a lot closer, but I think, the applicant thinks for rental purposes and aesthetics, it just looks better if it is separate. We did hear from some of the neighbors from the west, that they would actually prefer that it be attached and be pushed further back, away from their end, they would rather see the units located further back from their structure so there would be some privacy between them and the units, but they can speak themselves.

Commissioner Aieta: If we could have the Planner discuss where this special zone begins and where it ends?

Craig Minor: The special zone?

Commissioner Aieta: The overlay zone. Can this thing keep going down Cedar Street?

Craig Minor: Literally, the lot on Cedar Street, that is the additional Willard Avenue Zone District zone.

Commissioner Aieta: And that's it? So he couldn't come back and buy the house next to it and continue down Cedar Street down toward Alumni road?

Craig Minor: Well, if he is successful tonight.....

Commissioner Aieta: So that overlay zone is non-ending. It has no beginning or no end?

Craig Minor: Correct. Yes, but it has to meet all the requirements, but to answer your question, can someone come in tomorrow and ask that it be extended even further west, sure, they can ask, they can always ask, but will it meet your regulations, I doubt it very much. And I guess we will find out whether this even meets your regulations.

Commissioner Aieta: One other thing. From my understanding, he has taken the existing house, the new house and the garage, added all that square footage, and then came up with twenty percent of that total amount. I don't believe that that's how you determine the twenty percent. You would determine the twenty percent based on the new house, not the aggregate of everything that it has on the lot, even if he puts them together. All of the three houses here, garage, plus the house that he is going to buy, put that together and get his twenty percent, and it's a multiplying effect. I don't think that is the way that we should interpret this. I think we should interpret it as twenty percent of the building that he is, the new house that he is buying. Even though he is co-mingling the lot and making one lot out of it.

Chairman Camerota: Did you have any comments, anything that you want to reply to?

John Leary: I think you have to take each application separately, and I can certainly understand the concerns of the Commission, but I think you have to focus on the overall proposal here to get a multi-family center here, to have one larger piece of property, so I think the two units consistent with that planning for multi-family uses here in the Willard Avenue zone. I'm just relying on the language in the code here. We're working with that. How it can be interpreted and applied will always subject to some debate. I think we have a logical argument for that, I think the use is one that is certainly permitted, and I think the proposed use is, a harmonious use to create a multi-family center in that location.

Chairman Camerota: This is a public hearing, so we will hear comments from the public, and you will have another opportunity to rebut. Anyone from the public wishing to speak in favor of this petition, anyone wishing to speak in favor? Anyone wishing to speak against this petition?

John Sisson: I'm the property owner of the house directly to the left of this property. We have questions about the two town houses that are to be built. I'm not sure if my comments are appropriate now.

Chairman Camerota: Why don't you go ahead.

John Sisson: One comment, as you all know, those are all single family houses, and some of them are on rather large lots, some are smaller lots, and in that area of town, not the look of the town houses, but just putting town houses in, in that area of town, and also we have some general issues, questions about the town houses. The first one we have, I appreciate Mr. Snow briefing us before the meeting tonight, it's just going to be a breezeway attaching the town houses to the main house. If there was an option to lose the breezeway and just have those two town houses be separate, they could be put further back on the lot, and more secluded. I'm not sure the breezeway can be lost, but, that is an option that I think you can consider because that breezeway, looking at it from our house, the breezeway, with the existing house and the two town houses are going to create a very large monolithic wall, and so the appearance of that is not pleasing. I think if the two town houses are pushed further

back on the lot, it would seclude them from the other two houses, and it would make it more esthetically pleasing I think and also Mr. Snow, who is in agreement with my opinion to lose that breezeway, it will make it look better. There is an existing deck on the back of the existing house, and I believe that would have to be taken out, the deck would have to be removed for that breezeway to be put in. There is a minor concern about traffic, but not a real concern. We all know the traffic situation there. Other than that, that's pretty much our concern at the moment.

Chairman Camerota: Thank you. Is there anyone else from the public wishing to speak against this petition? Mr. Leary, do you have any comments?

John Leary: We spoke with Mr. Sisson earlier, and he expressed his sentiments.

D. 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.

John Leary, 675 Berlin Turnpike, Berlin: Speaking for the applicant, I think the Commission gets the idea of what we are trying to accomplish by extending the overlay to this property.

Craig Minor: This is an entirely different discussion, okay? Now we need to talk about how your proposal complies with the goals of the Willard Avenue Development district, and there are a number of issues, and I'm not sure what they are, so I'm looking forward to you telling us how this project furthers the goal of the Willard Avenue Development District.

John Leary: The Willard Avenue Development proposes a multi-family use and imposes certain findings that this Commission must find in considering this. Whether the proposed use would be harmonious with surrounding uses, whether it is suited, or would be suited when the building was renovated, and traffic. We have discussed some of those. Again, we are proposing a single family rental center here, consistent ownership, consistent management, architectural styles that would be consistent. The multi-family use, there would only be two additional units that we are proposing, the two additional units to bring people into the town center, certainly there would be little or no traffic impact here, and again, it's a multi-family use that is allowed, so I think it's certainly a use and a change that would be consistent.

Chairman Camerota: Anything further? Craig? Commissioner Comments?

Commissioner Hall: I think my confusion remains. I understand expanding the multi-family use. I'm having a hard time getting over the fact that you are going to leave that house as a single family residence. I'm also having a hard time getting over the fact that you are going to attach a breezeway to it, to make it so that you can expand it. What's the breezeway going to do? I mean, are people going to be able to go from the single family house to the town houses? I mean, it really serves no function, except to allow you to expand and create. I don't see how we can have a single family in the middle of all these multi's. And saying all this, I have to tell you that that corner is really very attractive. What they originally did with that old Kellogg-Eddy house was magnificent. It looks attractive, I'm wondering how expanding what you are trying to do is going to change all that, because right now, it's a very attractive corner. My big problem is, single family, multi, multi, multi. It's a little Rube Goldberg for me, I'm afraid.

Commissioner Aieta: The existing zone there now is what?

Craig Minor: It's R-12.

Commissioner Aieta: It's R-12, and they are looking for a change to what?

Craig Minor: Well, it's R-12 but it has the Willard Avenue overlay.

Commissioner Aieta: So there really is no zone change, it's just the overlay.

Craig Minor: Correct. We use the zone change process, but it's an overlay on top of the R-12 which will remain.

Chairman Camerota: Any additional comments? Any rebuttal?

John Leary: Just in regard to the single family home. It would be rented out as a single family home. It's not going to be owned separately, this is a total ownership of both parcels here so we can manage them. A larger four bedroom home would be offered to a larger family, not divided up into smaller units. It will be a larger rental space, and the two town house structures will be smaller than that. Consistent use in the same location.

Chairman Camerota: How many bedrooms are the two townhouses going to be?

John Leary: Each would be two bedrooms.

Commissioner Ekstrom: (Inaudible) I'm just envisioning it that maybe everybody could use that, as a breezeway, that's why I was wondering how it was going to be used.

Commissioner Leggo: Just some clarification. Right now this is a one single family house and then the two, you are proposing two other structures, right?

John Leary: Yes.

Commissioner Leggo: Each one would be a one family, each one of them. Do you have the square footage of them?

John Leary: About 1,050.

Commissioner Leggo: Each. I just wanted to clear that up in my head, thank you.

Chairman Camerota: We can hear from the public. Is there anyone from the public wishing to speak in favor of this petition? Anyone from the public wishing to speak against this petition? Seeing none, we will keep this petition open. Craig, I think we talked about before, we need to get an idea of why that overlay district was developed. I definitely was not on the Commission when that was developed and I don't recall ever applying it when we discussed the properties.

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

Rose Lyons, 46 Elton Drive: It's been a long time. I wanted to come tonight and say thank you to Dave Pruett for all his years of service to the TPZ as well as all the other things that he has done for the Town of Newington. I think we all know that he is going to be sorely missed

in this town, and I first had the pleasure of working with Dave when I was with the probate court, and we always could count on Dave to be there with prompt and courteous service and we looked forward to his visits so we could catch up with what was going on at TPZ, and I would like to wish him and his wife Pat the very best in their move to Berlin.

Secondly, the last two petitions were very confusing to those sitting in the audience, as well as being confusing to you, and it makes it even more difficult when we can't hear what the Commissioners are saying and their question. Commissioner Aieta, I know you don't want to hear this, but you have to pull the microphone closer. I know that you've got good questions, I just don't know what you are asking.

Last but not least, there must be two separate cooling systems, because you seem to be okay up here, and I am freezing back there. If it could be turned down, or up, it would be great. Thank you.

Chairman Camerota: Thank you Ms. Lyons.

V. REMARKS BY COMMISSIONERS

None

VI. MINUTES

A. June 12, 2013

Commissioner Sobieski moved to accept the minutes of the June 12, 2013 meeting. The motion was seconded by Commissioner Camillo. The vote was in favor of the motion, with five voting YES, and one abstention (Hall.)

VII. NEW BUSINESS

Commissioner Hall: I would like to recuse myself from this being a member of the Brooks Edge Home Owners Association I would prefer not to take a stand on this, so I will be sitting in the audience while this is taking place.

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

Chairman Camerota: Is the petitioner here?

Craig Minor: Mr. Kowal called me this afternoon and asked if it was necessary for him to be here tonight. I asked him how his health was first, and I told him no, since the public hearing is closed there is really no reason for him to be here, and I would call him tomorrow morning and let him know.....

Chairman Camerota: There was no public hearing.

Craig Minor: I'm sorry, well, I lied to him then, but I did tell him that I would call him tomorrow and let him know how it goes.

Chairman Camerota: Okay, do you have any additional comments on this petition?

Craig Minor: No, I have the same comment that I made last meeting before we got interrupted which is that the lot does not meet the current requirements, and there is a lot of

could of, would have, should of, but the bottom line is, it doesn't meet the minimum current requirements, so I don't believe you have the legal ability to approve it.

Chairman Camerota: Any Commissioner comments?

Commissioner Aieta: I think we should comment on it, put something on the record. He came into the Commission thirty something years ago and this lot was excluded from the approval. They asked to come back after the project was completed and see how it would fit in with a house on there. It never came back to this Commission. From my understanding, it has never been assessed as building lot, it's been assessed as a open space piece of property. It's thirty something years later, and if we did approve this we would be opening up approval of grandfathered fifty foot lots, we'd be opening up a can of worms, we really shouldn't, it opens up too many questionable things that have happened in the past, and grandfathered smaller lots, so on and so forth, so I think that he has to comply with the existing regulations, and unfortunately the regulations have changed, lot sizes have changed in that zone, so I don't think we have the legal right, as the Planner has said, that we could approve it even if we wanted to.

Chairman Camerota: Thank you Frank. Any other additional Commissioner comments? Just for the record, I'm of the same mind as Frank, given the time and the minimal lot size requirements, that was done for a reason, it has been for years, and I just don't see how we can legally approve a house on this lot that do not meet our regulations at this time. What is the Commission's pleasure?

Commissioner Aieta: We have a motion, or we should close it and move it to Old Business.

Commissioner Anest moved to move Petition 14-13 to Old Business. The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with six voting YES.

VIII. OLD BUSINESS

Petition 14-13

Re-subdivision

23 Brooks Edge Drive

Frank Kowal, owner/applicant/contact.

Commissioner Aieta moved to deny Petition #14-13: One Lot Subdivision Approval 32 Brooks Edge Drive (Lot #6) Frank Kowal, owner/applicant/contact.

Findings:

1. The parcel does not contain the minimum land area (6,000 square feet) required for a "patio house" in accordance with Section 4.5 of the Zoning Regulations, and the reasons that were stated during the discussion before the motion.

The motion was seconded by Commissioner Anest. The vote was in favor of the motion with five voting YES. (Commissioner Hall recused.)

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.

Commissioner Anest moved to approve with modifications, Petition 19-13: Zoning Text Amendment to Section 6.1.1.C Parking Standards) Hayes-Kaurman Newington Associates LLC, applicant, Mark S. Shipman 20 Batterson Park Road, Farmington, CT contact. Effective upon publication.

Findings:

1. The current parking regulations do not recognize the mix of uses that normally occur at large shopping centers, and therefore require more parking spaces than actually needed.
2. This amendment is consistent with the Plan of Conservation and Development.
3. This amendment has been referred to the Capital Region Council of Governments and the Central Connecticut Regional Planning Agency, and received a favorable response from both agencies.

Modifications:

1. The proposed phrase, "Shopping centers with a principal tenant occupying not less than 60,000 square feet gross floor area" shall instead be: "Shopping centers of not less than 50,000 square feet gross floor area."
2. The existing definition of "shopping center" shall be changed from "A group of stores and often restaurants and other businesses, in one or more buildings and having a common parking lot" to "A group of three or more stores, restaurants or other businesses in one or more buildings managed as a single entity and having a common parking lot."

The motion was seconded by Commissioner Sobieski.

Chairman Camerota: For discussion on the motion, Craig, I think it was asked of you last time, how many locations this would apply to?

Craig Minor: Yes, there is a chart on the table in front of you, and I know it's kind of busy, but what this is, is a chart of what I believe to be all of the, what most people would consider to be shopping centers in Newington. There are a few on here that might not be shopping centers, but we can talk about them, but starting from, and I tried to group them to make it clearer, because some of these shopping centers do have multiple buildings, but they are under common ownership and they are adjoining.

The first one on here is on the Berlin Turnpike, it's the group of three buildings, the northern one has curtain & Bath by Mary and Sally or something like that, and then the next building has Sleepy's and then the third one is Dinette Depot. Those three buildings are all under the same ownership and collectively, the aggregate is 58, 714 square feet, so if the amendment is approved, because this is more than 50,000 square feet, these buildings would be subject to the regulations.

The next one I did was the Firestone, Bonefish, medical office, but I'm not, they haven't been built yet and I'm not sure whether that would apply, I'm not sure the three buildings together would total 50,000 so that probably won't apply, but the next one, 2985 to 3017 Berlin Turnpike, Price Chopper, TGIFridays and then the third building, Subway, a barber shop, those three buildings are all under the same ownership and combined there is 151,000.....

Commissioner Aieta: TGIFridays is not part of.....

Commissioner Leggo: That should be Chili's.

Craig Minor: I'm sorry, thank you. Also, the next one, on the Berlin Turnpike, most of these are in 3025-3095 Berlin Turnpike, Planet Fitness, Chuck E. Cheese, there's a restaurant, TGIFriday, so those two buildings combined come to 69,000 so that would be, that would fall under this. Now the next one, Joann Fabric, that, although it is a large building, 79,000 square feet, it has multiple tenants, it's a single building, but it would be eligible also.

Commissioner Aieta: It's a different ownership from the.....

Craig Minor: Yes, I was surprised because the style of the building is the same, but it is different ownership. If I, if I really drilled down, I might find that Ceres Newington Associates and Berlin Newington Associates may have a relationship, but I didn't go that far because I didn't think it would be appropriate anyway. The next one is Wal-Mart, it's six different buildings, but it is all under one ownership and it's 180,000 square feet, so that would definitely qualify. The next one is McBride Plaza and I put that one on there because I couldn't tell how big it was by driving by, but it turns out that it is only 20,000 square feet, so that wouldn't apply, even though it has multiple tenants. The Target, Target is a single user as I recall from looking at the building, so even though it's huge, 125,000 square feet, it's a single user so they wouldn't be eligible. They would qualify for the normal amount of parking for a big box. The Plaza Azteca and IHOP are under common ownership, but combined are only 10,000 square feet, so that wouldn't apply. The Lowe's I think is one building, so they wouldn't qualify for the shopping center designation, but they don't need it because they are so large that they already qualify for the lower amount of parking. There is the Sam's Club, gas station and L.A. Fitness, combined there is 186,000 square feet with one ownership, so that would be eligible. The Stew Leonard's and the Toy's R' Us are the same ownership, and at 151,000 square feet, that would qualify. The Gateway Plaza, as of now it doesn't, but when it is built out, that may top.....but.....

Commissioner Aieta: No, I doubt it, they would need another 25,000 square feet of building.

Craig Minor: Yeah right, so that probably won't qualify. Moving over to Fenn Road, the Stop and Shop on Fenn Road, which initiated this whole thing, would certainly qualify, and then Kitts Lane, the other Stop and Shop in town has a combined 189,000 square feet, so they would qualify. I think this is complete, pretty much what would be considered shopping centers in Newington, if this is approved.

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

Commissioner Aieta: Are you going to add the yogurt place?

Craig Minor: I prepared two motions, one if the Commission was amendable to the idea of treating the parking separately, and a different one in case the Commission was not. But there was a typo, so here is a corrected motion one, but on the flip side of that is motion two, which you are probably going to be using.

Petition 31-13
Special Exception Section 3.15.3: Restaurant
10 East Cedar Street
Anzor Tatashadze, applicant

Commissioner Camillo moved to approve Petition 31-13: Special Exception (Section 3.15.3: Restaurant) at 10 East Cedar Street, Newington Development Associates LLC, owner, Anzor Tatashadze, 100 West Street Apt. A3 Rocky Hill CT applicant/contact.

Findings:

1. A frozen yogurt restaurant, at this location, is different enough from a conventional restaurant as to warrant less required on-site parking than a conventional restaurant. The TPZ therefore deems this use to be on the "Each Use Not Listed Above" category, and need provide only eight parking spaces on-site.

Conditions:

1. None.

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

- 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.**

Deleted from Agenda-Previously approved.

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING

Craig Minor: The first one is the Eddy Farm, they would like to put a free standing business sign in front of their farm stand on Willard Avenue.

Commissioner Aieta: A permanent sign?

Craig Minor: Yes. The next one just arrived tonight, Bonefish Grill, they applied for a liquor license and in the process their liquor request came to Art Hanke and Art couldn't sign off on it because they hadn't obtained a permit for alcohol from the Commission. If I had known then what I know now, I also would have told them you need to get a special permit for alcohol, but I didn't realize it at that time, so they have to do this. So I recommend that this hearing be scheduled for your next meeting.

Chairman Camerota: Then we will schedule both for our next meeting which will be July 24th.

X. TOWN PLANNER REPORT

- A. Town Planner Report for June 26, 2013

Craig Minor: My written report is in your package. I won't read it but I will go to the Old Performance Bond items. On the table when you came in, there is a spread sheet, those are

the four or five that I believe are worthy of the town calling. I talked to the Town Attorney about it, and as you can imagine, there is a lot of preparation that you need to do to make sure that it is correct, and I want to tell the applicants exactly where the deficiencies are. I've gotten, some of the reports that I got back from the staff that inspected the site was a one sentence, we recommend no release. Well, I need to tell the applicant exactly where they are deficient, in fairness to them, they need to know exactly, so for a couple of them, I'm not ready to send out the letter yet, because I want the letter to include a detailed punch list of what is deficient, a copy of their original agreement, and a letter giving them once last chance to fix it, and if they don't, then we will call the bond. Now, in each case, the work that we are going to do will be different. In the case of the homeowner who, well, she didn't but the contractor did, but for the one where the driveway was built a foot or two too close to the property line, we're just going to tell her that we are going to hire a contractor and he is going to come in and do it, and I think when they see the white's of their eyes, maybe then at that point they will do it themselves. I don't think they will want us to do it. One of the deficiencies is the sub-division, the one at Rockledge, the developer never put in the street trees that he was required to do. I believe reading back through the notes and memos that Ed Meehan left, apparently the homeowners were asked if they wanted trees and they all said no, which is not uncommon, but I drove out there, and I noticed that there is sidewalk on the north side, the road runs east/west, there is a sidewalk on the north side, but nothing on the south side, so what I was thinking of doing, in consultation with the Commission, contacting the homeowners on the south side, going door to door, and asking them if any of them would like a street tree, and again, I will talk about it in more detail, and it would all be the same trees, or a palate of a couple so it's not too hodge-podge and then use the \$10,000.00 to do that. How many trees can you buy in 2013 installed and guaranteed? Usually when you buy trees from a landscaper, I don't know, maybe not too many, but I think a few trees are better than none, and I don't think there is any other way we can legally use this \$10,000.00. I had conversations with the Town Attorney. Since the money was posted specifically to complete the project, that the only thing that we could do with the money, well, we could let it sit there for another five years, or twenty years, but if we want to use it, the only thing we can use it for is something that has not been provided by the developer.

Commissioner Aieta: \$10,000 probably would buy between five and seven trees. Five trees, that's it.

Patrick Snow: May I speak?

Chairman Camerota: No, you can call Craig tomorrow and talk to him about it.

Commissioner Sobieski: If somebody doesn't want to do that, this homeowner, going through the process, I assume that it's a long process, between the time it starts and where it is now, getting the driveway removed, or whatever, how long, I mean I looked at some of these bonds, and there's some going back to 1995, and I'm just wondering if there is some way that this could be alleviated in the future so that, we have a time frame between the time a project is finished, or a punch list is done.....

Craig Minor: There is always a time frame. The reason that these are still hanging around is because they are problem children. They are not simple ones. That's why Ed was not able to get to them before he left after twenty years here. There's a reason, there's a story to why they are still here.

Commissioner Sobieski: I realize, but it just seems that we should be able to move this forward more quickly, that's all I'm saying.

Commissioner Aieta: There are time frames in our regulations, and once we get these cleaned up, I thought we were going to start adhering to the time frames that are under our regulations, so we start watching them when they come before the Commission and we act on them so they don't get to be ten, fifteen years old.

Commissioner Sobieski: Well, my concern is, if this is held in escrow, is there any interest?

Craig Minor: I don't know. I don't know if the Town put the money in an interest bearing account.

Are there any further questions on my written report?

Chairman Camerota: I wonder if you could comment about the Modern Tire appeal?

Craig Minor: Oh, yes, thank you. The court date was Thursday and the attorney for Modern Tire made his presentation and the attorney for the town, Attorney Bradley made his presentation. It was over in about an hour and a half or so, it went pretty quickly. It seemed like a good process. My understanding is that the judge has 120 days to make a decision. I don't know if he is going to take all that time or not. It seemed like the issues were pretty straight forward and wouldn't require a great deal of research or deliberation on his part, so hopefully we will hear sooner than that.

Report on Balf Quarry Operations

Craig Minor: Interesting, I think two days after last Wednesday, a gentleman from Balf Quarry came to the office with his bi-annual review, and I said, were you ears burning, and he said no, what do you mean, and I said at the meeting last week we said that we hadn't heard from you in a while, so he gave me his stuff. I still, at that point didn't know what he was required to do, so I went back and did some research and went back to some TPZ minutes, back to 2011, 2009 and 2007, and in each case what the Commission did was, they allowed the gentleman from Balf to make his presentation. They literally brought in a plan showing what they were authorized to do, and what they had been working on, and a narrative operation plans for the next couple of years. It was made at an open meeting. It was not a public hearing, it was done under New Business, three times, 07, 09, and 11. In 2009, for some reason the Commission received the report, the presentation under New Business and then, the following meeting under Old Business, authorized the Chairman to sign the plan, which I thought, okay, that's kind of like site plan approval, but not either 2007 or 2011, and just today I had a copy of the original agreement between the Town and Balf, and yes, it talks about Balf making bi-annual presentations in February, but it doesn't say anything about what the Commission is supposed to do with this information. So, in 2009 they had the Chairman sign it, to indicate that it was received, but that doesn't appear to be part of the requirements, so I will put this on the agenda for next month under New Business. I'll tell the gentleman from Balf to come and make a presentation. I have the plans and I'll just distribute the plans so you will have that before the meeting and I guess that's it. They make a bi-annual presentation. It's not February, but it's better late than never.

Chairman Camerota: I think there was a question from a member of the public about whether or not there was a closing, a closure plan.

Craig Minor: Actually, I have the minutes from the Council back from 1989, I'll read it again, but there is nothing about a closure plan. I'll make copies for everybody. I think that is all that I have.

XI. COMMUNICATIONS

None

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

Chairman Camerota: I do want to thank everyone for voting tonight, I would just like to read for everyone Dave's e-mail to me dated June 10th, 2013. "Dear Michele, it is with deep regret but with this up-date I have to render my resignation as Chair and membership on the town Planning and Zoning Commission. This decision did not come easily, but I have the opportunity to sell my house, out of the blue, with the caveat of completing it by July 22nd. Coupled with the fact that on the same day I sold my late mother-in-law's house, and just recently bought a condo in a fifty-five and over community in Berlin, needless to say I have been and will be quite a busy guy. I just wanted to extend to you, my fellow Commissioners, our Town Planner and his fine staff how much I enjoyed working with each and every one of you during my numerous years on the Commission. I always felt that this Commission worked very hard in doing what is best for the town and its residents and wish all of you the very best in your future endeavors. Warmest personal regards, Dave."

I just wanted to express my thanks to Dave. He was on the Commission, I forget how many years, but when I arrived in '07 he was very helpful to me in leading me along. I was an alternate at that point, and I think he did a great job as Chairman and as Commissioner always trying to get all of the information that he could, and do what was best for the town and the residents.

XV. ADJOURNMENT

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Aieta. The meeting was adjourned at 8:30 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary