

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting and Public Hearing

July 8, 2015

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:10 p.m. in Conference Room L101 in the Newington Town Hall, 131 Cedar Street, Newington, CT.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Brian Andrzejewski
Commissioner Carol Anest
Commissioner Michael Camillo
Chairman Cathleen Hall
Commissioner Robert Serra Sr.
Commissioner Stanley Sobieski
Commissioner Anthony Claffey-A

Commissioners Absent

None

Staff Present

Craig Minor, Town Planner

III. APPROVAL OF AGENDA

Chairman Hall: Are there any changes to the agenda?

Craig Minor: I recommend deleting New Business IX.A: Petition #17-15: one lot subdivision on Maple Hill Avenue. It's not ready yet. I did receive an e-mail from the applicant granting an extension to the decision deadline.

IV. ZONING ENFORCEMENT OFFICER REPORT

Mike D'Amato: Last time I was here we spoke a little bit about blight enforcement and how it is administered, so I have some info for you. It's fairly generic, it basically is just statistics. I can go over the procedure if you aren't familiar with it...

Chairman Hall: Why don't you go over it for the public?

Mike D'Amato: Okay. Blight is administered through the Town Manager's office. I am the blight enforcement officer along being the Zoning Enforcement Officer. When a blight complaint comes into the Town Manager's office it's logged in, we gather information, and the Town Manager's office then sends that information to multiple departments. I do the blight enforcement. I sign the enforcement letters, but there are a lot of different people that look at the complaints that also get involved because there may be other issues. If you have a blight in an industrial area for example, there may be issues that the Fire Marshal may have with safety, and there are a lot of

different areas to look at. So the complaint goes out and gets researched by the different departments. We do the history before we make any determination, inspect the property, and if we determine that there is a blight condition I send out the notice. The standard procedure is, we send out a Notice of Violation warning letter, which is not appealable. Then we send a citation, and after the citation and the ten day notice from the Town Manager's office, the property would be placed on the blight list. After that happens we have a five day notice period, and ultimately the Town can remediate the property if they choose to. The time frames is based on the property, what needs to be done. If it's tall grass we don't need to give them two weeks, but if it's a large issue, or is going to cost a lot of money, or require town engineering or something, the time frames do change. They are all sent by Certified Mail so that takes some time as well, but that is pretty much the procedure. There are a lot of different eyes that look at the complaints when they come in. Human Services, the Fire Marshal, Police, myself, a lot of people are all available in case there is something that I wouldn't know, that I might need to know before we send something out. So, that is the basic procedure.

The blight ordinance was revised in 2012, it's much stronger now than it was, and since that date, the Town has received 190 blight complaints. We have currently have 30 open, and we have closed 160. We have received since April 1st of this year, 40 complaints, which are in these 30 open. We have currently 19 in the warning phase, one in the citation phase, we have currently one on the blight list, and then a few that are pending inspection that are recent.

To give you an idea of the types of violations: nine of them consist of overgrown vegetation in some way, eight of them are junk or debris, four structural issues, and nine have a combination of multiple issues.

As far as the closed complaints, 48 of the total received did not meet the criteria; six of them we pursued through the zoning regulations instead of the blight ordinance. We remediated nine properties since 2012. What that means is, we determined what the violations are, determined what needed to be done, the Town then went in and did what was needed to bring the property into compliance. The Town then liens the property for the cost to do the work, so when the property is transferred or something along those lines, we recoup the expense. I do not know how many where we have gotten money back. We've had 97 remediated by the property owner or debt servicer.

We are doing something that this year that we have not done before. There is a means for me, as a Zoning Officer, to contact the property servicer for those foreclosures. It's an on-line tool that ZEO's can use for free, so I go in there, I put in the information, and I probably have a better than ninety percent success rate in contacting the servicer, get their information, touch base with them, and have it taken care of. We've had a lot of success with that, it's helped, because there are a lot of properties that have been remediated in previous years which now are having servicers, and that as you probably know, banks grab mortgages and then they sell the note later. The bank is on the land records, but it's not necessarily the same bank that is holding the mortgage, so it could take four to six months before they get that notice from us. By that time we've liened the property and we have cleaned it. So that has worked out saving the Town time and money. That's all I have for blight, so if you have blight questions before we go on. So as far as the report is concerned, I wanted to start bringing more stuff to you than just the ZEO report, when I come, so just as an aside, there were sixty permits that were reviewed, by me, building related, all kinds of applications. Does anyone have any questions about the actual report as far as the properties there?

Chairman Hall: I'm just wondering if 35 and 305 Main Street are two separate?

Mike D'Amato: Two separate, yes. One is just south of the 295 gas station.

Chairman Hall: Does anyone else have any questions?

Mike D'Amato: I brought up the last time I was here the changes to the commercial vehicle regulations. You all should have received a copy. I have hard copies if you want them. The big changes on the back are in bold. Based on the comments that came up at the last meeting, we adjusted the format to make it more reader friendly and also to make it easier to understand what we are trying to do. A lot of the complaints that I receive are related to a neighbor's truck with a backup alarm. I did some research into what warrants a vehicle alarm, but I think it would be iffy for us try to delve into that, so basically we just put in here, "any vehicle outfitted with a backup alarm" shall be considered a commercial vehicle. I think that covers it as far as that issue. Also we talked about vehicle signage so what we did is we took the two square feet, which would allow someone to have a one square foot sign on each door, which would list a business, but nothing greater than that, so the vehicles that we talked about on the Berlin Turnpike, if they are taken home at night because they are not going to be allowed to be parked on the Berlin Turnpike, well, because they have more than one square foot, or two square feet, then they would be a commercial vehicle. The GEICO car which is a Ford Focus which is now registered commercially, since it has more than two square feet of signage would be a commercial vehicle. I think this ultimately regulates the aesthetics of a neighborhood. The other thing I want to mention, as a note at the bottom, we talked about large trucks, the Ford "dually" which under the old definition would be considered a commercial vehicle, the clarification is because that vehicle is used for personal use, and is not regularly used to carry, deliver, handle or transport goods, it would not be considered a commercial vehicle even though it has an excess of ten thousand pounds. So those who choose to drive large vehicles for themselves would not be caught in this regulation.

Commissioner Serra: I have a question on A, "Commercial vehicles". "Any vehicle or piece of equipment regularly used to carry, deliver, handle or transport goods in the conduct of business, profession, or trade". I have a problem with the term "regularly". What if you have a side business and use that vehicle maybe on the weekend, maybe once or twice a month, as jobs come up. What constitutes "regularly"?

Mike D'Amato: Are you saying that you think the person should be allowed to have that truck, or are you saying that they should not be allowed to have it?

Commissioner Serra: What I'm saying is, maybe the word "regularly" needs to come out.

Commissioner Anest: I have a question. Someone who has a home occupation, they work out of their home, and their work vehicle is also their everyday vehicle, the only vehicle they own. How would that fall out?

Mike D'Amato: If it is used in conjunction with a business, then we would look into all of these criteria, one through five. We know it's used for business. Does it have a backup alarm? If no, so then we would go on to the other five and see if it meets two or more of these criteria. If it did, then it would not be allowed on site.

Commissioner Anest: And if a home contractor has a pickup truck?

Mike D'Amato: It would have to meet two of these criteria to be "commercial", and a Ford F-150 probably would not. It's not more than 2 axles, it's not more than twenty feet in length, and the gross vehicle weight is not more than 10,000, so therefore because they don't meet two of these criteria, it would be okay. If it had modifications like some kind of rack on the back or machine equipment, generator, compressor, etc. that starts changing the game, and it would probably meet two or more.

Commissioner Anest: What about a van?

Mike D'Amato: If it is a van that has signage, and meets another one of those criteria, then it wouldn't be allowed. I want to give you a bunch of photos, and try to get an idea of what you feel should be allowed and what shouldn't, but I can't guess what people are going to try to do to modify the vehicles and what they might need for work. It's just too big of an area.

Commissioner Anest: I just don't want to hurt the contractor whose vehicle is also his everyday car, that's what I'm concerned about.

Mike D'Amato: Certainly. The only other way to go about it would be to take what you have around town, to take photos or something, and go through them and see whether or not they would meet the criteria. If it's just a pickup truck with combination plates, or passenger plates then it probably wouldn't be an issue, unless it had a bunch of other things with it.

Commissioner Sobieski: Mr. D'Amato, I don't want to hurt the small business guy who has maybe a five-ton mason truck that he operates his business out of, with some small signage. What I am concerned about are people who work for the XYZ Company and take the vehicle home and run service out of that. You're on call 24 hours a day for heavy equipment or something like that, you carry diesel fuel and stuff in that truck; that's what I'm worried about. I think that is how this whole thing started, and I don't see anything in here that clearly lets the owner of the vehicle who lives on the property, gives him a little leeway versus somebody who works for XYZ Company and takes the vehicle home. That is the criteria that I would like to see something done with. I don't want to hurt the small business guy.

Mike D'Amato: The reason that we took out the "unless owned by the resident" language is because ultimately the reason that people call me and complain is because they look unsightly. I understand what you are saying, and I agree; someone who has a small business and is just trying to get by and doesn't turn enough profit to rent a space on the Berlin Turnpike for thousands of dollars per month, shouldn't have to pay to store a truck. I completely agree. The problem is there is no difference between Joe's Construction Company which has fifty trucks and they are all sent home every night, and Bob's Home Improvement, which is one truck, one guy. I don't know how to regulate them differently in a fair way when they all look the same.

Commissioner Sobieski: How does the Town of West Hartford do that? I know that West Hartford has some very stringent regulations on that.

Commissioner Camillo: West Hartford says that between two and five AM you can't park in the driveway.

Mike D'Amato: In the driveway?

Commissioner Camillo: Or in front of the house on the street.

Mike D'Amato: I have their commercial motor vehicle definition, and I know that there is no overnight parking on any street in town. It basically says that "a commercial motor vehicle shall include any vehicle registered for the transportation of merchandise or freight, or employees of the registrant, which is propelled by or drawn by any power other than muscular except such as rails or tracks. Such registrations shall include commercial, combination, repair transport, heavy duty trailer, construction equipment, other service and/or commercial truck, tractor. Effective January 1981." This is their definition of a commercial vehicle. I don't know if anybody who has a vehicle at home is going to read that and say, okay, am I good? We're trying to come up with a definition so that someone who is looking to do something with this type of a vehicle can know what they can and cannot have. So if they are ordering a vehicle for the business, they know,

well, I can't do this, I can't do that. We're not going to help everybody, and we're not going to catch everybody.

Commissioner Sobieski: I'm not referring to the guy who runs his business out of his house, I'm referring to a guy who works for a construction company, a trucking company, whatever who takes the service truck home with him. That's what I'm after. That is not his vehicle, he's on call, he's driving a "dually" and he may carry diesel fuel parts to repair, that's what I'm concerned with.

Mike D'Amato: Are you saying that someone who is on call for a business should be allowed to take their truck home, or should not?

Commissioner Sobieski: I'm saying someone who is on call with that size vehicle should go to the work facility and get the vehicle; not bring it home.

Mike D'Amato: And under this regulation, anybody with a vehicle like you just described would not be able to bring it home because it would be too big. Most people who work for a construction company must have a backup alarm on their vehicle because they are on a construction site. So I think that that's probably going to catch ninety percent of them right out of the gate, and most of your mom and pops that have an F-150 don't have backup alarms. They are not on a job site, they are not worried about all these other things. It's their personal vehicle. So I think that in most cases that would not be an issue. I haven't had to deal with many of these since I have been here, maybe a handful, and I can tell you nearly all of them had backup alarms because it's a flatbed, it's some type of platform truck, it's some type of large vehicle with combination plates because it's on the job site sometime and they need to have a backup alarm. There have been tons of people hit by trucks on job sites. I think that would probably catch that.

Commissioner Sobieski: I understand, but let's assume that this person decided to disconnect the backup warning.

Mike D'Amato: It's very simple. If they put the vehicle in reverse and it doesn't have a backup alarm, then it doesn't. If someone chooses to illegally modify a truck I can't do anything about that, but if when I leave they reconnect it, the neighbors are going to call me, because right now the windows are open, it's nice out. I don't know how to regulate any more specifically. I think this is a good first step.

Commissioner Claffey: This question is for Commissioner Camillo, if he could answer it. Is there a vehicle that has more than four tires and exceeds twenty feet in length that I could go and buy at the typical Ford dealership?

Commissioner Camillo: A Ford "dually".

Commissioner Claffey: So because it is a personal vehicle it would not be a violation, because I can buy one and run a business out of it without you knowing it, as a ZEO, and I'm exceeding two or more of the....we're talking about the backup, unplugging it.

Mike D'Amato: Zoning regulations are not perfect. There's always going to be someone who is going to figure out a way around it. If someone is running a business out of their home with a crew cab dually, and they have no other, you know, this is one way that we address businesses. We only allow certain permitted home occupations. Let's say he has this truck, and he has trailers, lawn mowers, signs, and he's storing materials. He's in violation. If you go to TPZ we will address it that way. I am currently addressing several in that manner because right now we are dealing with these definitions.

Commissioner Serra: I don't want to split hairs, I just want a clarification, and I already know the answer but I'm going to ask it anyway. A home owner has a personal truck, a dually, regular truck, whatever. They have a plow on it. I know that when I had a truck with a plow I had a permit for the orange light. That could be considered "equipment". Where would I fit in?

Mike D'Amato: Are you plowing just your own driveway?

Commissioner Serra: I'm plowing my driveway, and I help out neighbors, I didn't charge them, I just went and helped them out.

Mike D'Amato: If someone had a plow and they were using it to plow their driveway and plowing neighbor's driveways, to be a good neighbor, well, there is some discretion involved here.

Commissioner Serra: I understand. I'm just trying to cover all bases here with you.

Mike D'Amato: If you can think it, it probably exists somewhere. If someone was leaving at three in the morning, plowing for twenty hours and coming back, and they have signage; there is discretion involved, and at that point, we would probably look at it and make the determination.

Commissioner Serra: Okay.

Mike D'Amato: So do you want to make any changes to this?

Commissioner Claffey: Regarding complaints on vehicles that are outfitted with a backup alarm: have there been any for handicapped vans?

Mike D'Amato: No.

Commissioner Claffey: I didn't know what would happen if when you went to investigate backup alarm complain and it was the homeowners van, who is handicapped and has an alarm for their protection when they back it up.

Craig Minor: This would be a "reasonable accommodation" that we would make for the handicapped person, which by Federal law we are required to do.

Commissioner Sobieski: Mike, I think you did a great job on this. I know it's a lot of questions, and I think with that one change I would feel comfortable with this.

V. PUBLIC HEARINGS

A. Petition 23-15: Special Exception (Section 3.2.8: Charitable/Civic Event at 3120 Berlin Turnpike (Panera) for classic car event. Charter Oak Firebirds, applicant, Newington VF LLC owner, Brad Benoit, 174 Coe Avenue, East Haven CT, contact.

Brad Benoit, 174 Coe Avenue, East Haven, CT: We are the Firebird Car Club which started in 2004. In 2006 we created a car cruise charitable event to help children, for different charitable events. We have donated to Solnit Adolescent Center, Yale Pediatric and Connecticut Children's Medical Center. We also donate toys to different hospitals once a year at Christmas time. So what we are looking to do, have been doing, is just raise a little money for these organizations by having a "cruise night" at Panera Bread on a bi-weekly basis, which is the first and third Saturday for the summer time. Everything that we do is strictly volunteer. We ask people to help out, if they bring toys, that's great, if they want to make a donation, that would be wonderful. So we have different people around the state who give us toys and donate to charity. With the history

that we have down there, we've pretty much had a very safe and fun environment. You would come in the afternoon and park the car. We have parkers, volunteers that come and help out, and we just have people who come and wait for the music, and it provides really good sales to Panera Bread as well, so we are very helpful to them. It's a good partnership for each party involved. What are the conditions that we have with Panera Bread? We have to keep the parking lot open so that fire trucks and ambulance, EMT's, can get through the (inaudible.) We make sure that there are accessible parking spots. People come into the restaurant and eat, so we always have someone at the door who checks people in and out. No animals, nothing like that. Like I said, we are a charitable club trying to help children.

Chairman Hall: Do the Commissioners have any questions?

Commissioner Aieta: One of our concerns is that you have been parking cars in the State right of way, and that's very unsafe. We would be looking for you to keep the State property off limits to any cars or people walking.

Brad Benoit: Let me just pass around a picture.

Chairman Hall: We have it.

Brad Benoit: Okay. What we did at the last cruise night is we took the boundary lines, and we blocked off the fire lanes with the boundaries.

Commissioner Aieta: If you do that I think that will alleviate one of our concerns. That was one of our big concerns.

Brad Benoit: We have a deejay, and we ask people upon leaving to not be (inaudible). We try to stay within the rules as much as possible. When we leave, we leave in a safe, orderly fashion. Once they hit the street I can't control what anyone does, but I make that announcement, and I've done that for ten years.

Commissioner Aieta: Do you hire off-duty policemen? Do you have security there?

Brad Benoit: I do not. There are on-duty police officers who come, they park there, and they know what we are doing. They know that we try to keep a very safe environment. I talk to them, and my vice-president talks to them, they know us and they do come to check up. I encourage that, I have nothing to hide.

Commissioner Serra: Obviously Brad and I know each other. I've been to the cruise many times in the past, although I don't do that too much anymore, but for at least the last ten years I've gone off and on to the cruise, and I will say, it is run very well. What he is saying tonight is factual. They do run a good show. I do know that they do donate to charity. I've been involved in car clubs that do pretty much the same thing. Charter Oak Firebirds is a good club, a responsible club and I have no problem with going forward with this.

Chairman Hall: Mr. Planner, do you have anything to add?

Craig Minor: My only concern was the parking on the grass, but the use of yellow police tape appears to have worked in the past. I suggest that if the Commission approves it that they be allowed these dates going into the future until and if it becomes a problem.

Chairman Hall: Anyone from the public wishing to speak in favor of this petition? Come forward, state your name and address for the record. Anyone wishing to speak in opposition? Anyone wishing just to speak? Last word from the Commissioners? So, what do you want to do?

Commissioner Anest: Close it and move it to Old Business and vote on it this evening, seeing that their next cruise night is July 18th.

Craig Minor: Give me a minute to run back to the office and prepare the Draft Motion to Approve. That should just take a second because it doesn't sound as if there are going to be any conditions.

The motion was seconded by Commissioner Aieta.

B. Petition 16-15: Zoning Text Amendment (Section 3.1.3.B: Roadside Farm Stand) Andy Billipp, 277 Cedar Street, Newington, CT, applicant/contact.

Andy Billipp, 277 Cedar Street, Newington: Good evening.

Chairman Hall: Tell us what you want to do, this evening.

Andy Billipp: What we want to do is be able to use a mobile vending unit, a food truck, at the Eddy Farm farmstand. I have proposed a zoning text amendment that would allow the use of a mobile vending unit in roadside farmstands, and we are the only one. What I want to be able to do is sell some good foods, ice cream, smoothies, juices, things like that, so we wouldn't necessarily be limited to just produce grown on the premises. We had a lot of thought as to how to move forward with the business. The farmstand is our business, it is what we do. It's not something that we have on the side. We thought about expanding the building, getting into more prepared foods, more value added, and trying to think of the best way to proceed there we came up with food trucks as being the best way because that area is in a wetland, it's not conducive to building a permanent large structure. I'm not interested in doing that either. It's space that we've had and we have always tried to make it look the way local agriculture should. So it's not a bunch of ugly stuff that you have to look at. It should be a spare environment where you could go and see the farm and the area there.

Commissioner Aieta: Question for the Planner. Are we restricted to the language that is proposed here, or can we make changes?

Craig Minor: You can make changes to it. Anything significant I would recommend not doing, but you can make some slight change.

Commissioner Aieta: Under B, where he made the change to the regulation "only produce grown on the premises may be sold", I would like to change that to "only locally grown produce" can be sold. I would like to take off, "such as ice cream", because there might be other food products that he would want to sell from the truck and it's almost like limiting him to ice cream. So with those changes it would give him an opportunity to sell locally grown produce and he's not restricted to just ice cream. I don't think those are major changes. I think they are beneficial to the applicant, and I don't think that they are major changes.

Chairman Hall: Any comments?

Commissioner Anest: I don't know if this pertains, but will he need picnic tables?

Craig Minor: That's a good point. Frankly, it didn't come up in conversation. I would probably be okay with that, but if the Commission has a problem with that, let's talk about it now.

Commissioner Anest: Also the parking. I think it's a fabulous idea, I really do, but I'm concerned about parking and kids running with ice cream, and things like that. Are they going to consume the food on the premises? Because it's not a big parking area.

Andy Billipp: I can speak to that. I don't have any interest in having a lot of people gathered there. I don't want to have customers stay there, I'm not planning on putting out any picnic tables or things like that. I'm not planning on providing seating because I don't want to encourage people to sit around.

Commissioner Claffey: Question for the Planner: a mobile food truck, if it has levelers on it to make it flat and straight and plum and level, could it be considered a "structure" when the four wheels are taken off the ground?

Craig Minor: That's a good question. It says the Commission "may approve the vehicle", so the applicant would have to tell them what kind of vehicle it is going to be, and then if the Commission has a problem with that vehicle they can say no, that's not acceptable.

Commissioner Claffey: I just want to make sure that it doesn't get classified as a structure, because that would be a violation.

Chairman Hall: Are these going to be moved each night, or are they going to stay there? Your farmstand gets closed up at night. Is this truck or trucks going to stay there, or are they going to disappear and come back the next day.

Andy Billipp: We would go by the health district rules. They have to go to a place that has a certain set of equipment, sort of like a commercial kitchen that can ensure that it gets cleaned properly, so it won't be there overnight. And of course, it's also a seasonal thing.

Commissioner Serra: What hours of operation are you looking at?

Andy Billipp: Similar to the stand now. Maybe a little later, but we don't have overhead lighting there. I'm not sure. That is one of the physical problems that we would have to work out, but I would say similar to the stand as it operates now which we close at six. I would probably stay open another hour or so.

Commissioner Serra: My concern is on a weekend when the soccer fields are being used. I don't dislike the idea, I just want to be sure that we are covering all of the bases, and there is a safety concern for people going from the park across the street and back. They are not going over there for vegetables if they are kids, but if they see an ice cream truck, and the parents take their eye off of them for a minute, they are gone. So I think we have to look at that too.

Craig Minor: I think the burden would be on the applicant when he comes back next month, as part of his presentation, to satisfy you that this will be safe. Until he satisfies you that it would be safe, you withhold your approval. It's not a special permit, there's no public hearing, but "the Commission may approve", so it's going to have to come before you the way fireworks and other outside tent sales have to come before you for permission, but not a special permit.

Commissioner Sobieski: You might want to consider having the town request from the STC or the OSTA to put a cross walk in. If you are going to have a lot of people crossing, that's a state highway.

Chairman Hall: There may be an issue with that because this is short term and the crosswalk would be long term. By putting in a crosswalk I think you are going to encourage people to go from one side to the other, and I don't think that is what we should be doing. I don't think we want to encourage it. It may be a by-product of having the truck there, but, I would not be in favor of that. Any other comments? This is a public hearing, we will be getting comments from the public. Anyone wishing to speak in favor of this, come forward, state your name and address for the record.

Gary Bolles, 28 Burdon Lane: Very proud and honored to speak in favor of this text amendment. I know that in the original stipulation I think you had something about, all produce must be produced on that property, but then there was a change, which is a good change, that it said something about the surrounding area and I do know that the corn does come from Wethersfield and it is truly excellent corn, so if they couldn't bring it in from Wethersfield, we wouldn't have any corn. I wouldn't be able to buy any corn, even though I don't look like it, I do like corn. The other thing is, I know you have to run this by the Capital Region Council of Governments, and reading through the information today I understand that they have no problem with it what so ever. They actually endorsed it. Also, back on May 13th, I had brought in the book where the Eddy Farm was profiled in the Hartford Courant's Telling Connecticut Stories, with a nice picture of Andy and Hailey Billipp. I think that is one other reason to approve this. This is one of the two surviving farms in Newington and as far as the vendors who would be parked there, and I understand the concern about people crossing the street, but I don't think that there would be that much traffic coming across the street. I may be wrong, but there is no reason why, just like last summer when we saved Mill Pond Park, from putting that building over there Ben and Jerry's came. They parked their truck up on the lawn and they gave everyone free ice cream, so that truck that is going to be over at the farm could presumably move across the street if the traffic became too much, and just sell the ice cream. I think maybe that is a simple solution. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in favor? Anyone wishing to speak in opposition? Anyone just wishing to speak? Any other comments from the Planner?

Craig Minor: No.

Chairman Hall: Any other comments from the Commissioners?
So, we shall close it and...

Commissioner Serra: I make a motion to close it and move it to Old Business for this evening.

Commissioner Aieta: I will second it and hope that the Commission will entertain my amendment changes.

Chairman Hall: Oh, absolutely. As a matter of fact, I had told the Planner.....

Craig Minor: Add the phrase "locally" instead of "on the site".

Commissioner Aieta: So if he makes the amendment changes, he ends up hurting his own business, so let's make it so the business is profitable.

Craig Minor: Okay.

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

Chairman Hall: We will move that to Old Business tonight, and vote on it.

C. Petition 19-15: Zone Change (CD to B) at 1593 Southeast Road, CPD Properties 1593 New Britain Avenue LLC, owner/applicant: Mark Grocki, VHB, 100 Great Meadow Road, Suite 200, Wethersfield CT contact.

Daniel Kleinman: For the record, my name is Daniel Kleinman, partner at the law firm of Hinckley, Allen & Snyder, 20 Church Street, Hartford, Connecticut. With me this evening is Shannon Rutherford who is the director of development at VHB, our project engineer. For record keeping purposes, let the record reflect that the sign has been posted on the property, by your regulations ten days prior to the public hearing. The text amendment that we are

proposing is also been referred to the Capital Region Council of Governments. According to the Town Planner, the report, which I think you have a copy of, finds no apparent conflict with CRCOG's plans and policies. The application before you this evening is one that we had formalized, as we were here before you informally on May 27th, and this is for a zone change from the CD zone to the B zone for the property at 1593 Southeast Road which is also known as 1593 New Britain Avenue. As part of the zone change application, we have submitted a site plan which is pursuant to Section 3.10.2.B of your regulations. Shannon will review this with you shortly. It is our intention to present a full site plan presentation on July 22nd. We talked to the Town Planner and we are working with the Town Engineer to resolve a number of questions which the Town Engineer has. We are confident that we are going to be able to answer them, but because we were not able to complete all of our interaction with the engineering staff, we thought it was better to delay that presentation until the 22nd of July, and we will be back here to do that with you.

The site as you have seen from the plans contains 19, 431 square feet or less. It is currently occupied by a Shell Gas Station which takes up about 1,238 square feet at this time. As you will hear from Shannon in more detail the proposed site plan will demolish the existing buildings and replace it with a new 3,150 square feet retail building with on-site parking, sidewalks and utilities. This property is somewhat unique, as you can see the black line which bisects the property. A portion of the site is located in Farmington, and that is in the B-1 Zone, which permits retail and the Newington portion is in the CD zone which does not permit retail. The comparison of uses between the Farmington B-1 zone and the Newington B Zone show a striking similarity between the two. The current CD zone does not permit a gas station, and therefore this use is non-conforming. Actually except for the nearby Barnes and Noble store, as Shannon will show you, all of the other surrounding properties which are retail in use are located in the CD Zone. Babies 'R Us, Sleepy's, Bed, Bath & Beyond, FedEx, Kinko's, Designer Shoe Warehouse, and Resident Inn by Marriott, so they are all non-conforming. The Barnes and Noble which is also bisected by the Farmington town line is the only property within that five hundred foot radius that is in the B Zone which permits the actual retail.

I would submit that the granting of the zone change at this site from CD to B, is consistent and in harmony with the Plan of Conservation and Development and with abutting business uses, and I know that this Commission is aware from the Planner's report and your own experience as experienced members of the Commission that determining the appropriateness of granting a zone change, state statutes and case law says that the Commission shall take into consideration the Town Plan of Conservation and Development, and that the uses in the zone will be in harmony with such planned other uses in the neighborhood, so I would submit that you look at your own Plan of Conservation and Development, Section 1.1.16, in the plan, Purposes and Intent, encourages the most appropriate uses of land throughout the town, but this is the development plan, your business development plan if you go to the map of the Town of Newington, you can find this little corner there in the West Hartford, New Britain, Newington town line, Farmington line, classified this site as for general business use, which I think gives a wide latitude in terms of how this Commission can look at this particular site. All of the surrounding businesses are of the same nature, they are all retail stores. There are no conference centers, or other uses that are really, that are part of the CD zone. Office, business and professional services, corporate headquarters, conference centers, research laboratories, research and development uses, any other use which is essentially compatible, similar to those listed above, may be authorized by the Commission. We first thought that we could come in under that catch-all phrase in Section 3.20.1, but in looking at it, our feeling was that really would be inappropriate and in the best interest of this community I think to take a look at, a fresh look as you do with the Plan of Conservation and Development, and also at the zones itself, and nobody can understand, we've talked to the Planning Staff about it, and no one seems to understand how that zone designation allowed the magnitude of retail development on site. I mean, this is one of the most heavily concentrated retail development sites in the area, and it's all zoned inappropriately. This

is an opportunity I think for this Commission to take a fresh look at it and decide how they would like to handle it. We know that the property is unique because the town line bisects it and fortunately for us, and I think for the Commission as well, the B-1 zone in Farmington, and I have a chart, and I don't know whether you would like to see it or not, but I have a chart that categorized the two different zones, one in Farmington and one in Newington and they really track almost identically in terms of what they are, and I will submit this for the record, if I may, just to have it on file with the record.

So, basically that is my presentation regarding the actual zone change, and the rationale for, I do think, this could be the start of a fresh look by the Commission at this particular area, but cleaning up the gas station, you will hear from Shannon some of the details, replacing it, will be good and will be pleased with the end result, so Shannon, if you could give some highlights, we're not going to go into great detail tonight, we don't want to duplicate it, you have a long evening, I've seen the agenda, and so we will give you an overview of what the site is going to look like, what we are planning to do, and then we will come back with greater detail and we'll outline some engineering parts of the application after we have reconciled what we are planning to do with the Town Engineer.

Shannon Rutherford: The zone map for reference purposes, this is the five hundred foot radius map that was part of the application. The parcel in question is attached and is noted. This is the town line, runs through the parcel, this portion being in Farmington, this portion being in Newington, and this second map provides the same radius, but with the aerials, and helps really to put into context the adjacent retail uses that are next to us. I know we are all familiar with this corridor with the West Farms Mall and the number of retail businesses that Dan enumerated that are surrounding the parcel, both to the north and to the south of us. The corridor is rather consistent from a retail development standpoint. With respect to the site plan, this print up now is a rendering of what is there today as the existing gas station, the building, the gas pumps and there are two entrance driveways. There are parking spaces here in the rear, there is some informal parking along this side as well, as well as the parking at the gas station pumps. With respect to the proposed site plan, this is what was submitted with the application so the plan here, this plan is simply a color version of the black and white that was submitted as part of the application. We have a 3,150 square foot retail building that is proposed, there are sixteen parking spaces, that are proposed. You will note that the driveway has changed, so it will be one curb cut now rather than two. The site, as developed and proposed here will be compliant with both the Newington and Farmington zoning regulations. There will be I believe one non-conformity remaining and that would be with Farmington, and that is a lot size. We're not adding to the lots, so that non-conformity will remain, but the non-conformities that had been part of the existing plan with the Shell Gas Station will be eliminated with this proposed plan. The traffic demands, we also submitted a traffic memo as part of the application, and we compared the traffic memo looks as comparing the existing use of the gas station and convenience store to the proposed use of a furniture store. It's going to be a sleep number bed store, so the traffic demand obviously is dramatically reduced in comparison and enumerated in the traffic memo that was submitted with the application. Additionally, I think if we were to compare it to the use of that had been permitted in the CD zone, which we are requesting the change to the B, but if you take a look at some of the uses in the CD zone, they would have been higher traffic generating uses as well. So, this comparatively is a, certainly a less intense use and certainly the size of the parcel is dictating the intensity of the uses that would be practically permitted within that footprint.

From the development standpoint and improvements, we've increased the amount of landscaping on site by five percent, as compared to the existing site plan, that translates to approximately 900 square feet of green space, if you will, on the property compared to the existing Shell Gas Station, and the landscaping obviously is notably increased. With respect to the increase in the green space, there is storm water benefits that come with that, the increase in the landscaping translates to a reduction in the storm water flow coming from the site, it automatically translates

because there is more area for infiltration within the landscape area, so that is a benefit from a storm water standpoint. We are also implementing best management practices with storm water with catch basins, hoods, water quality units, prior to the outlet and as Dan noted, we are working through some of the engineering comments to finalize the responses and come to a consensus on the approach, and believe we will be able to have that all final before the next meeting. The landscaping, we are adding five trees,

Commissioner Aieta: Excuse me, you should save that for the site plan application; just give us a real quick overview. We're getting too many.....

Shannon Rutherford: Oh, okay. Too many details? Okay, that's fine. The only other thing is the landscaping which is, as you can see here is certainly an improvement, so with respect to the zone change and the need to submit the site plan, then this is what you have before you.

Chairman Hall: Thank you. Commissioner questions? Mr. Planner, do you have anything that you might want to add?

Craig Minor: No.

Chairman Hall: Again, this is a public hearing so we will be hearing from the public. This is on the zone change from CD to B. Anyone wishing to speak in favor of this petition? Anyone wishing to speak in opposition? Anyone just wishing to speak?

Daniel Kleinman: We understand that this will be put under Old Business for next meeting. We understand you need some time to think about this.

Commissioner Aieta: I move to close the public hearing and move to Old Business for July 22nd.

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

Chairman Hall: We will see you on the 22nd and you will have the site plan and the engineering.

D. Petition 25-15: Special Exception (Section 3.11.6: Restaurant) at 3375 Berlin Turnpike, (Raymour & Flanagan.) WNT VII LLC, applicant, Furniture Executives No. 4 L.P. , owner Michael Hamlin 287 Chesterwood Terrace, Southington, CT, contact.

Michael Hamlin, 287 Chesterwood Terrace, Southington, CT:

Chairman Hall: Explain why you are here please?

Michael Hamlin: I'm here to get approval to put a restaurant in the Raymour and Flanagan building at 3375 Berlin Turnpike.

Chairman Hall: Could you give us a few details? You seem to have a quite large packet here.

Michael Hamlin: We will have a dining room, a banquet room in the back, and then a bar in the front. (inaudible). We will have about 6500 square feet, but I felt that would be appropriate for that spot.

Commissioner Aieta: This is not really a question, just a comment, my comments about these large shopping center locations in the past, that are underutilized because of the vast amount of parking and particularly with a furniture store, we would encourage this type of a use, because

you drive by there, and you never see any cars. I was hoping it would be a pad site, and in these big shopping centers they are underutilized so this type of an operation in my opinion is what the Commission is looking for to utilize, or rehabilitate, some of these older shopping centers, get the grand use up higher than what they are, and try to build our grand list up.

Michael Hamlin: I hope I can help you.

Chairman Hall: Any other comments, questions?

Commissioner Aieta: Just one more comment. The patio area in the front - you're basically using the existing sidewalk area. You haven't ventured out into the parking area?

Michael Hamlin: There is a huge concrete walk.....

Commissioner Aieta: And that is the area that you would be using as the patio?

Michael Hamlin: Correct.

Commissioner Aieta: So you are not going into the asphalt at all.

Craig Minor: No, he is. The picture on the screen is not exactly the same as the plan that you have. The plan in front of you shows the large patio, and it does kick out into the travel lane in front of the store.....

Commissioner Aieta: How much?

Craig Minor: Twelve feet. It comes out into this area [pointing to the monitor], roughly half the width of this thruway. One reason I asked the applicant to give me some revised plans was to be able to give the revised plan to the Fire Department, the Chief of Police, and the Town Engineer to make sure that it is not an unsafe situation. It does not appear to be, but I wanted the public safety folks to look at it.

Commissioner Aieta: He's given us a 24 foot travel lane.

Craig Minor: Right, and it's currently approximately 36 feet.

Commissioner Aieta: So, is 24 feet adequate for fire and travel?

Craig Minor: That's why I want the Fire Marshal to look at it and make a recommendation.

Commissioner Aieta: Worst case scenario, you might have to eliminate a couple of parking places and move the handicapped. We want to make sure that we want to have adequate clearance in the travel lane in front of the building. The existing travel lane is 33 feet, 6 inches, and you are cutting it down to 24, and someone other than me has to determine if that is adequate.

Craig Minor: The Commission needs to make the decision (which I don't think is a tough one), but you need to decide if you want to approve the special permit before you approve the site plan. I don't think you are going out on a limb that much, because if the public safety folks say that that patio doesn't work, then they just won't go with the patio; they could still have the restaurant, but not the patio.

Commissioner Aieta: They could make it smaller, there's other options, because there is so much parking in that area, you just move those two bays of parking, the parking places, and you

move them back. Then you end up with your 33 feet, you end up with a bigger driveway. There's ways to accommodate safety without them having to come back.

Chairman Hall: Any other questions, comments?

Craig Minor: Only that the site plan has not been reviewed by the public safety folks.

Chairman Hall: This is a public hearing so we will be getting comments from the public. Anyone wishing to speak in favor of the petition?

Kathleen Boudreau: Good evening. I'm the director of asset management for Raymour & Flanigan, representing Furniture Executives #4. I just want to be here to speak on behalf of the Furniture Executives #4 that we are very much in favor of this. It will be a great partnership, a restaurant with a furniture store. As noted the furniture store has very little need for parking, in fact there is a different parking criteria in different towns which require less parking. We have found this to be a great partnership in many other towns. For that reason, the customers, when there is an overflow will come into our store, and on Mother's Day for instance, we call them over the loud speaker when their tables are ready. So it is a great relationship. We have done our research about Wood 'n Tap, and everybody in the area loves them. Our associates are very excited about having them next door, Best Buy is very excited, they have all indicated that they will be attending meetings and Christmas gatherings at the Wood 'n Tap, so we feel that it is a great use of an oversized store for us, to down size by 10,000 square feet, and bring in a great partner.

Chairman Hall: Thank you. Anyone else wishing to speak in favor of this petition? Anyone wishing to speak in opposition? Anyone just wishing to speak?

Commissioner Aieta: You are going to need some reports back from the.....

Chairman Hall: Contingent on the site plan.

Craig Minor: So, Old Business next meeting?

Chairman Hall: The 22nd. The vote was unanimously in favor of the motion, with six voting YEA.

VI. PUBLIC PARTICIPATION (for items not listed on the Agenda, speakers limited to two minutes.)
None

VII. REMARKS BY COMMISSIONERS

None

VIII. MINUTES

- A. Special Meeting May 27, 2015
- B. Regular Meeting, May 27, 2015
- C. Regular Meeting June 10, 2015

Commissioner Sobieski moved to accept the minutes of the Special Meeting, June 27, 2015, Regular Meeting May 27, 2015 and Regular Meeting, June 10, 2015. The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with six voting YEA.

IX. NEW BUSINESS

- A.** Petition 17-15: One lot subdivision at 149 Maple Hill Avenue, Maple Hill Development LLC, owner, Mary Kate Van Valkenburg, 149 Maple Hill Avenue, Newington, CT applicant/contact.

Postponed

- B.** TOD (Transit-Oriented Development) Regulations for CTfastrak neighborhoods.

Craig Minor: I spent some time since the last meeting gathering information. The first item, about the funding: I spoke to the Economic Development Director who was the person who discussed this with the Town Council six or eight months ago, and asked him how much money was discussed. He said that no specific number was discussed. So I then called some consulting planners that I know to ask them for a ball park on how much should we budget. The observation that I got from Glenn Chalder, who understands that TOD and CTfastrak are complicated issues here in Newington, was that we spend a little time educating the community, as well as ourselves, about TOD and how it has worked in other towns. Now of course every town is different, but I think there is value in the Commission hearing from, say, my colleague in Windsor which has just adopted TOD regulations, to hear how it actually played out in Windsor. Windsor is different from Newington, but even towns that are different have some things in common, and human nature is pretty much consistent: nobody like change. So I think it might be of value to talk to some other towns that have adopted TOD regulations and how they did it. I talked to a colleague by the name of Jason Vincent who, when he was in Stonington, created a process he called "Community Dialogue", or something like that, which was informal and physically not even in Town Hall, to reinforce the notion that we are just talking, we are just throwing out ideas, we're just educating ourselves on some of the issues that are involved and how it works out in other towns. Jason said he would be happy to come up some night to talk to us about this, and I'm sure my colleague up in Windsor, Eric Barz, would come down. In the meantime I would continue collecting regulations and RFQ's from other towns. I'm continuing to do that, but I think the suggestion had some merit, and so I'm throwing it out to you to see what your response is.

Commissioner Aieta: The only thing that comes to mind for me is that none of those communities have a busway that goes right through the center of their town. I mean, this is a really unique situation.

Craig Minor: Meriden and Windsor have trains going through them, and new train stations. Yes, they are getting trains rather than busses, but the economic impact and the uncertainty are the same for all of these towns.

Commissioner Anest: I was going to suggest tonight that before we start anything that we find out from the public what their opinion is right now, because I think there is a big misconception that we don't want development at all, and I'm not sure what the people want. The other thing is, I wouldn't want anyone from a city to come in. We're not a city, we're a town, and we want to keep that town feeling. I don't want people to get the impression that we want to become a little city, so maybe Stonington, or some of the other...

Craig Minor: Windsor.

Chairman Hall: Windsor is actually very similar.

Commissioner Anest: It is, but their demographics are a little bit different from ours. I'm just saying let's have the public here before we start anything. Maybe with those gentlemen coming in speaking and having the public here.

Chairman Hall: When they presented the TOD study it became a public meeting, and it was a disaster. I think we need to hear from the public absolutely, but I do not want to combine the public and the professionals.

Commissioner Anest: That's fine, but the other hearing, that was just a big....

Chairman Hall: Mess.

Commissioner Aieta: I also think that we should have a public hearing but it would be nice if we could get the word out to the community that we are having this public hearing, and it is specifically not for us to tell them what we are thinking, it's for them to tell us what they are thinking. I don't want to sit here with four people in the audience.

Chairman Hall: Well, I don't want to do it in the summertime, I'll tell you that right now. We did that once before. I can't remember what the topic was, maybe it was auto-related uses, and we kept hoping that the public would come, and no one was here. So, I don't want to do this in the summer, I'll tell you that right now too.

Commissioner Sobieski: Yes, I agree that we definitely need public input, and I definitely think we need to do a better job of getting this out to the general public, and to say we want to hear what you have to say about this. This is not a rubber stamp thing, we want to hear what they have to say, and we are going to take into consideration what they say. That is very important to me. The next step would be to try to find a town similar to Newington, and find out what they are doing, keeping in mind though that there are two different modes of transportation. You are talking a rail line that maybe gets a train every two hours, and you are talking a bus line that has a bus every fifteen minutes. You are also talking feeder routes that come into this bus line, that don't go into a rail station, so those would be two different parallels that I would be interested to see how they are addressing.

Chairman Hall: You have to remember that at some point we too will have a rail line. We're not just going to have the bus.

Commissioner Sobieski: That's correct. At some point in time, and I'm not sure if that is next year, some stations are going to be put in.

Craig Minor: Four or five years.

Commissioner Sobieski: Okay, I thought I had heard 2016.

Craig Minor: They have already started the design.

Commissioner Sobieski: In any event, it's one of many stations that are going in along that line. That's assuming that the State can find somebody to run the line.

Commissioner Aieta: What can we do between now and September, what can we do to move this along?

Craig Minor: Let me ask my colleagues in medium and small towns that just went through this process to come informally to speak to you. I'll buy them dinner and they will talk to you for a half hour, an hour. Maybe at your six o'clock meeting.

Commissioner Aieta: That would be good. I just don't want to stop and wait until September. If there is stuff that we can do, let's do it.

Commissioner Camillo: The public needs to be informed about what other options there are. Their biggest fear is housing, so if there are other things that can be shown to them, that helps.

Chairman Hall: Then if we have the experts first, and talk about ideas, get that out there and then have a public hearing after.

Commissioner Camillo: That would be the best way to do it. So what you can do, see what you can arrange.

Commissioner Aieta: If we did that, the public could come, but they can't speak and we could have a special meeting for them to comment on whatever they want to comment on, from what the other planners from the other towns have talked about.

Chairman Hall: Well, if planners are on the agenda the public isn't going to be able to speak on what the planners are going to be speaking on, but we will have time for the public to speak.

Commissioner Sobieski: Also, could they bring any regulation changes that they made?

Craig Minor: They could certainly do that, but I don't want to get into those details yet. I just want to hear about the process that they went through, the culture change that was involved and what they did to educate the public about TOD, rather than any actual regulations. .

Commissioner Sobieski: I would be interested in seeing what Windsor is doing.

Craig Minor: Actually they haven't done anything yet. After a quarter of a million dollars on consultants, they actually didn't end up with any zoning regulations yet. They did other things. "Big picture" things that didn't become zoning regulations. If Eric Barz comes we can ask him about spending \$50,000 on TOD-related downtown revitalization, I mean, they had blue sky stuff, all inspired by this train station that they are getting.

Commissioner Sobieski: But you said "downtown center". We don't have a program for the center. I would like to see what they are doing.

Chairman Hall: It would be interesting, because the density of Windsor Center is very similar to Newington Junction. I think he would be a very valuable resource. Having spent seven years in Windsor, knowing the town very, very well, there are very close similarities between Windsor and Newington on many levels. Anybody else have anything?

X. OLD BUSINESS

- A. Petition 23-15: Special Exception (Section 3.2.8) Charitable/Civic Event 3120 Berlin Turnpike for classic car event. Charter Oak Firebirds, applicant, Newington VF LLC, owner; Brad Benoit, 174 Coe Avenue East Haven, CT contact.

Commissioner Anest moved to approve Petition 23-15: Special Exception Section 3.2.8 Charitable/Civic Event at 3120 Berlin Turnpike for classic car event. Charter Oak Firebirds, applicant, Newington VF LLC, owner; Brad Benoit, 174 Coe Avenue East Haven, CT contact.

CONDITIONS:

The applicant shall keep cars and spectators away from the street with the use of yellow police tape to ensure the site is safe.

Craig Minor: You don't have to specify the dates unless you would feel more comfortable doing so.

Commissioner Aieta: They are all for this year.

Craig Minor: Correct.

Commissioner Anest: We're only doing the approval for one year.

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

B. Petition 16-15: Zoning Text Amendment Section 3.1.3.B Road side farm stand, Andy Billipp, 277 Cedar Street, Newington, CT applicant/contact

Commissioner Aieta moved that Petition 16-15: Zoning Text Amendment Section 3.1.3.B Road side farmstand; Andy Billipp, 277 Cedar Street, Newington, CT applicant/contact be approved with the following changes to the amendment: that roadside farm stands must be set back 20 feet from the street line, and only locally grown produce on the premises may be sold. The Commission may approve one or more vehicles selling food items not made or grown on the premises. Change "produce grown on the premises" to "locally grown produce".

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

XI. PETITIONS FOR PUBLIC HEARING SCHEDULING

A. Petition 25-15: Special Exception (Section 6.2.4: Free standing Business Sign) at 2525 Berlin Turnpike (Doogie's Hot Dogs), Roberta Aronheim, 11 Farnham Avenue, Waterbury, CT, owner/applicant/contact.

Commissioner Aieta: I want to know how they are calculating the amount of signage that is involved. I want to know what they are using for frontage, how much signage is currently on the building and how much is proposed to be sure that he does not exceed the signage regulation. Also, I would be looking for something from the State of Connecticut that gives him permission to have the sign on the State right of way. A letter from DOT saying that they have some kind of arrangement. The "frontage" of the building is the part that is facing the Berlin Turnpike, not the part that is facing Ruth's Chris Steak House.

Craig Minor: Okay.

Commissioner Aieta: I think it is over-signed the way it is.

B. Petition 26-15: Special Exception (Section 6.13: Accessory Apartment at 33 Pfister Drive Bhagyesh and Shveta Patel, applicants, Stefan and Eugenia Jarosz, owner, Bhagyesh Patel 114 Gloucester Court, Newington CT, contact.

Commissioner Anest: On the accessory apartment, the Certificate of Action shows 60 Pfister.

Craig Minor: It's the same property. It has a different address because it's on the corner, and apparently back in the day it was known as 60 or whatever. Today it's 33.

Chairman Hall: It was probably the lot, because when it was built, it was built as an in-law, so they may have assigned the lot.

Craig Minor: I was confused by that too.

Commissioner Anest: I'm sorry, the one that I am thinking of is on Memory Lane. I'm sorry.

- C. Petition 27-15 Special Exception (Section 3.11.1: Dance Studio) at 37 Ann Street, Backstage Academy of Dance, applicant, 37 Ann Street LLC, owner Kimberly Larson 7 Wintergreen Road, Bristol, CT, contact.

XII. TOWN PLANNER REPORT

- A. Town Planner Report for July 8, 2015

Craig Minor: Zoning Enforcement Issues from the Last Meeting: none. Old Performance Bonds held by the Town: I haven't worked on that for a while. Incident at Cinco de Mayo: attached is the crime/incident report filed by the police officers involving an incident at Plaza Azteca on May 5, 2015 and a copy of the original special permit application as requested.

Chairman Hall: Any Commissioner questions?

Commissioner Aieta: How many years did we give them? Did we give them three years?

Craig Minor: Yes, that's why we knew that they didn't have to come back this year.

Commissioner Aieta: There was a catch-all phrase in the approval that if there was an incident that we.....

Craig Minor: It's in the minutes. Let me read it: "This approval shall be valid for three years pending staff approval. If the applicant wishes to conduct the event again in 2015 and 2016, he shall file notice with the Town Planner not later than March 1st, of each year, [which he didn't do this year] with satisfactory police reports."

Commissioner Aieta: I have read the reports from the police, and I don't see, they would have to come back next year and they would have to explain how they are going to control the crowd here. The police department is saying that every cop in town was at that place trying to control it and it took hours for them to vacate the premises. Some of the problems became fire hazards. If there had been a fire, it would have become one of those things like they have at soccer games. I don't know, he would have to prove to us that he is controlling the size, and if he can't do that, I would not be in favor of letting him do this type of event ever again.

Chairman Hall: I think it's because they have had it for so many years and the word has gotten out. I think the only thing they would be able to do is to sell tickets, because if you open it to the public, you are going to end up with this type of a thing again.

Commissioner Serra: I know nothing about how they ran this, but I did hear somebody say that they did sell tickets and they oversold the tickets. I just want to say, and I know that I said this the last time, but I was at Puerto Vallarta that night. They had security at the door, they had security throughout the building, they had two officers outside. The owner/manager, at a certain point, went outside and announced "nobody else in, we're full". There was still a little crowd around the bar trying to get a drink, but it was manageable. So, they can do it, and they managed it, with no problem. I just think this was mishandled, mismanaged, however you want to phrase it. It can be done. You let a certain amount of people in, and the rules have to be enforced. They clearly did not do that, so I would like to see them come in and explain how this is going to work.

Commissioner Sobieski: I agree with Commissioner Serra. I know that they did sell tickets up there, and they oversold, and obviously did not know how to control the crowd. I agree with Commissioner Serra that he should come in, explain to us how he is going to handle it.

Commissioner Anest: I noticed too, that it looks like the police were only there during the problem. I don't know why the police weren't there earlier.

Craig Minor: There were supposed to be off-duty cops from the beginning.

Chairman Hall: This is from when they wrote up the incident.

Commissioner Anest: I would like to know what the job was that they were hired for.

Commissioner Camillo: They were trying to control the cars. I was trying to get to Lowe's...you couldn't get near their parking lot.

Commissioner Anest: Right, but I would like to know what their contract was, because I was told that they did not have a contract until later that evening.

Commissioner Claffey: Question for Commissioner Serra. This could be for anyone who knows the answer, but he was at the other restaurant that day. Were they, Puerto Vallarta, under a special permit also or were they just working as a restaurant normally?

Commissioner Serra: They were just working as a restaurant normally which is what they have done, and there has never been an issue there. They had their outdoor patio, but that wasn't overflowing. People were within the patio.

Commissioner Claffey: No, I was using that as an example of a normal business without a special permit, no problem. We give a special permit and...

Commissioner Aieta: I think you should send them a letter saying that he does not have an automatic approval next year; that he has to come to this Commission and prove to the Commission's satisfaction that he can run this operation differently than he did this year. The onus is going to be upon him, it's not going to be on us that we have to approve this.

Craig Minor: The way that you revoke a permit (you gave him a permit through 2016, so this is, in effect, revoking it) is to hold a "show cause" hearing, where you give him the opportunity to explain, to give his side of the story. Then, depending on what he tells you, TPZ decides whether to revoke the third year of his permit, or to sustain it but with some new conditions.

Commissioner Aieta: We should be doing that now.

Craig Minor: Yes. He did not comply with the requirements of checking with me before March 1st, so he didn't comply with that requirement, and that could be grounds to revoke it. But still, you have to give him the opportunity to explain why he didn't comply with that.

Commissioner Anest: That would be another reason why we (inaudible)

Commissioner Camillo: I make a motion that we schedule a hearing on this petition.

The motion was seconded by Commissioner Sobieski.

Commissioner Aieta: When do you want to have it?

Chairman Hall: As soon as possible, while it is still fresh in our mind.

Craig Minor: the July 22nd meeting is getting pretty full, and I know that you want to do it while it is still fresh, but you don't really need to do it before next May. Maybe the August meeting? Okay.

Craig Minor: Zone Change on Back Lane in Wethersfield: the hearing was last night. A couple of the TPZ Commissioners were there. The zone change was approved even though I submitted a letter which warned the Wethersfield Planning and Zoning Commission that anybody from, Back Lane in Wethersfield is on the east side of Newington and Back Lane...

Commissioner Aieta: Where is their property?

Craig Minor: See the hand [pointing to plan on the monitor]? That's where their property is.

Commissioner Aieta: Behind those houses?

Craig Minor: Yes. There is a row of existing houses on the east side of Back Lane, and behind that row of houses is this fifteen acre parcel that has been proposed for the zone change.

Commissioner Aieta: What are they using for access?

Craig Minor: That was my issue, after Commissioner Anest brought it to my attention. The only access, let me go to Google maps...

Chairman Hall: Well, there is access in from Old Reservoir, and there are going to be a couple of cul de sacs, but in order to make it go through, and not have to go all the way back, residents are going to cut through to Back Lane.

Craig Minor: This shows the problem [pointing to map on the monitor]. This is the area in question that they want to subdivide. Now, you people are Planning and Zoning, so you know that if somebody has the minimum lot size, you have to approve their subdivision. You can't not approve it. The wrinkle here is, the owner of the property wants a zone change which would give them more lots in an open space subdivision than they would be able to get in a conventional subdivision. That was my concern to Wethersfield - if they approve the zone change, the owner is going to be able to get more lots. And with those more lots, lot owners or their guests that leave the development with the goal of heading south on the Berlin Turnpike, are all going to have to go...

Commissioner Aieta: They don't have to, they choose to.

Craig Minor: True - they could go north, but I did a Google map, and it would take ten minutes to go north and then south, but only eight minutes, and a mile less, if they went through Cottonwood. So the rational person living in this development is going to cut through Cottonwood if their goal is to head south on the Berlin Turnpike.

Commissioner Aieta: And that's a private road.

Craig Minor: It's a private road, and it's narrow. That was my concern to the Wethersfield Planning and Zoning Commission, but they didn't read my letter. I believe the Commissioners may have read it themselves, but it wasn't read out loud, and apparently the Commissioners blew it off. They said, "This is an issue for when we get to the subdivision application." No, it's too late then. Once they approve the zone change, the horse is out of the barn. In my letter I suggested

that they tell the applicants to connect their proposed roads to Old Reservoir Road, which they could do. There is a little bit of wetlands here, and there are a lot of wetlands on the property.

Commissioner Serra: He said he didn't have a problem with the Army Corps of Engineers....

Chairman Hall: He will.

Commissioner Serra: Absolutely.

Commissioner Aieta: So if they don't connect to Old Reservoir Road, we are stuck with the one entrance to this development in Wethersfield and they will be using our streets.

Craig Minor: I will go back again in two months, six months, whatever when the subdivision is actually submitted and I will argue that the cul-de-sac that has been proposed here [pointing to map on monitor] on their draft subdivision plans should not be a cul-de-sac; it should extend to Old Reservoir Road, which benefits Wethersfield because that opens up all this houses to be able to get to Wethersfield via their own town roads, without having to go north and over or south and over. It's just better planning.

Commissioner Aieta: They want this type of a subdivision, because they are going to use the wetlands portion as the open space.

Chairman Hall: Also, all of the adjoining properties are already (inaudible), this is not, so they are making it consistent. That was probably their best argument for doing it.

Commissioner Claffey: On the east side of Back Lane - all those neighbors on the right, just to be clear, those are all in Wethersfield?

Chairman Hall: The line goes right down the center of the street.

Commissioner Claffey: We talk about how GPS takes you different places in town, and I watch houses in the foreclosure process in Glen Woods and up in there, and it would always bring me down Back Lane if I'm in Wethersfield. Before GPS would bring me up Kitts Lane, so if you are thinking about people who are going to come out, take a left and go through Cottonwood, they really, they just put the gate back up, I go up into that neighborhood seven, eight times a week and I've maybe seen one car coming in that back entrance, and I go at all times. Seven in the morning, four in the afternoon, lunch time...

Commissioner Aieta: But if you add those lots there...

Commissioner Claffey: I'm not for or against this, but I don't even see the residents of Newington coming out to Back Lane to go anywhere. You have a thousand cars in Glenn Oaks, I'm there seven, eight times a week, if I see 25 cars come out of the back of that, I'm there, all of the time. I see more cars coming up Kitts Lane and coming off Two Rod which is in Wethersfield, but still...

Chairman Hall: If they are going east, they are going to use the back entrance; if they are going to the Berlin Turnpike, they certainly are not going to come out the back and then go down Back Lane and take another left.

Commissioner Claffey: According to this, part of that road is Wethersfield and part is Newington.

Chairman Hall: Back Lane is, Cottonwood is not.

Commissioner Claffey: I understand that, but Back Lane is the road they will be entering and exiting from, not Cottonwood.

Commissioner Aieta: We're not concerned about that, we're concerned about them cutting through Glenn Oaks.

Commissioner Claffey: But that's a private road maintained by a private association, not the Town of Newington, correct?

Craig Minor: Correct.

Commissioner Anest: I have to tell you, when I was out there in the fall, and I spoke extensively with two of the owners, and I won't even tell you how many gates they had to replace because people don't care. They have big boulders on the property, and still people were going up onto her lawn to cut through, people do cut through.

Commissioner Claffey: Are they residents of Glenn Oaks, the people who are going through there?

Commissioner Anest: Yes, and they are kids, they are people who live on Back Lane, who just want to cut down to Stop and Shop or whatever, that's what they are doing. So there is a concern.

Commissioner Claffey: A concern, I agree, but it's still a private road.

Commissioner Aieta: What's your point?

Commissioner Claffey: That's my question, what's the point of a private road that the Town of Newington has no jurisdiction over other than police and fire?

Commissioner Anest: We're not saying...

Commissioner Serra: We're probably analyzing this too much. Yes, it is a private road, but it's still part of Newington. It's the residents of Newington that we are here for, so if it's one car or 100 cars, if it doesn't belong there, it does not belong there.

Commissioner Claffey: But how can you determine if that car is from Wethersfield or Newington?

Commissioner Serra: That's not the point. The point is, they are adding a minimum of twenty new houses and that number is going to go up, and if someone wants to go to Stop and Shop, they are going to cut through Cottonwood. Once they learn that road goes through there, you just heard from Commissioner Anest that she talked to people there, and it is happening, so it's not an assumption.

Commissioner Claffey: I'm up there seven times a week at a minimum, and I'm just trying to state that there are other sides to the story than there is this horrible issue of cars going in and out.

Commissioner Aieta: We want them to connect to their own roads. We want them to connect to Old Reservoir.

Commissioner Claffey: So we as a town, want them to connect to another road in their own town, an out of town road from Newington.

Chairman Hall: We will keep our eyes on this, and our ears. We'll go to more meetings if need be because it was a very interesting meeting.

Commissioner Anest: I know that you submit a monthly report on your activities to the Town Manager. Could you give us a copy of your report? I think that may answer a lot of our questions that we might have.

Craig Minor: The report on what I do all day, right.

Commissioner Claffey: Chairman Hall, I have to exit. (9:15)

Chairman Hall: Okay, we will see you on the 22nd.

Commissioner Claffey: Possibly. I may have a work conflict that day.

B. Conditions of Approval at "Packard's Way subdivision.

Craig Minor: When this subdivision was approved back in 2007, it was approved with a lot of conditions. I included a copy of the Certificate of Action in the agenda package. Over the years the applicant, Donna DiMauro, and I have butted heads over some of the conditions. Most of them we have been able to come to an agreement on, sometimes we haven't, like the tree issue, and we brought them to the Commission to resolve. Now another issue on a condition of approval has arisen where frankly I'm not sure what the right answer is. I gave her my answer, and she respectfully pushed back and asked to let the Commission to decide.

The first condition of approval that we need TPZ guidance deals with the two existing houses. I'll read the actual condition of approval number 3, but the context of these conditions is that the subdivision plan need to be revised to reflect these conditions.

"3. Add notation that existing overhead utilities to 68 and 80 Maple Hill Avenue shall be located underground. The underground service shall be installed prior to the issuance of the first building permit."

The disagreement is over what it means to bring underground service to these two houses. My understanding is that her contractor has in fact brought electrical service up to a foot or two from the house. The difference of opinion between her and the homeowner is who should pay to bring the wiring the last 24 inches and connect it to the service panel. That's the question that she and I are putting to the Commission to provide a Solomon-like decision.

Commissioner Aieta: How did they terminate the electrical, how did they terminate it?

Donna DiMauro: There is a three (inaudible) abutting the foundation.

Commissioner Aieta: And they come up with the wires sticking out of them?

Donna DiMauro: Yes.

Chairman Hall: Are they still attached to the pole at this point?

Donna DiMauro: Yes.

Chairman Hall: So at this point they would have an option of having either underground or overhead?

Donna DiMauro: Yes. The question is whether I am responsible to hire an electrician to connect those underground wires to the inside box or electrical panel. Where does my responsibility end?

Commissioner Aieta: I would say she has performed exactly what she should. She has brought the utilities from the pole to the house; now it's up to them to run it from where she stubbed it at the foundation. She does not have to go inside and provide connections to the house, inside the house and to the panel. I think she did what she was required to do, bringing the electricity to the foundation. It's up to the homeowner to provide it from there to the panel. That's the way I see it, I don't see it any other way.

Commissioner Sobieski: My question is, does this actually go up to the house, or does it end two feet before the house? In other words, do these conduits go right up against the foundation of the house, and then they are capped?

Donna DiMauro: Yes.

Commissioner Serra: I would have to agree with Commissioner Aieta. I think Ms. DiMauro has fulfilled her obligation on that. A couple of years ago I had a gas line put in, they ran it to the foundation, and I had to get my own person to run it the rest of the way. It's the same concept. It says "to the house", not into the house, so I don't think there is any further responsibility on Ms. DiMauro's part.

Commissioner Aieta: We don't want the overhead wires to remain; they don't have a choice as to whether they are underground or not. We want them connected underground, we want the overhead lines removed.

Holly Kobayashi: May I speak on behalf of myself, I'm the homeowner?

Chairman Hall: I have no problem with getting both sides of the story. I always like to hear the whole story; is everybody okay with that? Okay. Let's hear the homeowner's side. State your name and address.

Holly Kobayashi: Holly Kobayashi, 80 Maple Hill Avenue

Chairman Hall: So it's Holly, not Hollis?

Hollis Kobayashi: Hollis is my full name.

Commissioner Aieta: Which is your lot?

Chairman Hall: Are you 68 or 80?

Hollis Kobayashi: 80.

Chairman Hall: You are on the south side of Packard's Way?

Hollis Kobayashi: I'm on the south side. I'm looking at the Certificate of Action which were the requirements for the approval, the agreement, and number three is the utilities for 68 and 80 shall be located underground. This states service, which means there should be service, and my point of view, my perspective is that means that it is supposed to be in working order. But what I'm seeing here is that I am obligated as the home owner to put underground electricity in. We have it over ground right now. I don't understand why the burden is on me. According to the legalities here, it says service. Maybe this was wrong, but they did write service, and to me, service means functional.

Commissioner Aieta: The subdivision regulations require underground service on any subdivisions. If we had our druthers everyone would have underground service instead of overhead, because of power outages and so forth, so as part of our subdivision regulations the service will be underground. Now, when they say "service", she provided service, service is actually the term that they use for the wires, not that she has to provide a service, the service all the way into your house. I think she met the letter of the law by bringing it to the foundation, if it is correct that it is to the foundation, and it ends at the foundation wall. It is up to you to bring it from there.

Hollis Kobayashi: What you are saying is that it is my obligation to do so.

Commissioner Aieta: Yes.

Hollis Kobayashi: Why is it my obligation to do so?

Commissioner Aieta: By the subdivision regulations.

Hollis Kobayashi: I'm finding it difficult to understand that. That I am obligated to put electricity that I had nothing to do with in the first place.

Commissioner Camillo: Are you the first house that was built?

Chairman Hall: No, she is an existing house. 68 and 80 are existing. They are the ones on Maple Hill Avenue.

Commissioner Aieta: Then why did this Commission put the condition that they run the utilities underground to two existing homes?

Craig Minor: It's the developer who has to comply with the subdivision regs, which are that all utilities be underground.

Commissioner Anest: I'm confused, because according to the Certificate of Action, you were one of the owners.

Hollis Kobayashi: Not of this development. I was an owner of the property. I live in one of the properties.

Commissioner Anest: Third line: "Donna DiMauro and Hollis Kobayashi owners, request for a ten lot subdivision..."

Hollis Kobayashi: That was initially. I didn't have any approval, I wasn't the developer, I sold my property to the developer.

Chairman Hall: Ms. DiMauro was 68 originally. She owns the north house and you own the south house.

Commissioner Anest: So when the Certificate of Action was issued, you knew the conditions.

Hollis Kobayashi: I was not involved in this approval at all. I was just a homeowner selling my property. I had nothing to do with the approval.

Craig Minor: She owned some of the land, but she wasn't the "applicant".

Hollis Kobayashi: The Town Planner, Craig Minor, looked at it and stated that it was her obligation.

Craig Minor: I think it is her obligation. A developer has to do everything that the developer has to do. Soup to nuts. Why put the burden on the homeowner to finish the project? If it is a subdivision requirement that all houses be served underground, then, now, the logistics of it should be that Holly chooses the electrician and Donna pays him.

Commissioner Aieta: You could leave it the way that it is with the overhead wires, and if you ever want to connect it, you would have to connect it yourself. You are saying that basically those two houses in the front are not part of the subdivision, that's what you are saying.

Craig Minor: But they are.

Commissioner Aieta: Okay, so if they are, then she has fulfilled her obligation to bring the electricity up to the house.

Craig Minor: But she didn't. She stopped a foot away from the house.

Commissioner Aieta: But she didn't, she stopped at the foundation. It would be reasonable to assume that that was her responsibility.

Commissioner Camillo: When you sold the property, you basically agreed to the action.

Holly Kobayashi: I was not involved in the action, we didn't even sell the property at that time. The improvements, once the improvements were enforced, this property hadn't even sold. I had no jurisdiction over this. I had no rights.

Commissioner Anest: I don't think, as a Commission we can make a determination.

Craig Minor: It was your condition. I mean, it was Ed Meehan who drafted it, but it was your condition. You have to tell us what it means.

Commissioner Anest: Have you pulled the minutes to see how that came about?

Commissioner Camillo: Attorney Sabatini would...

Holly Kobayashi: He was originally involved, but he was not involved in this purchase.

Commissioner Camillo: He was involved in this.

Holly Kobayashi: Yes.

Commissioner Camillo: Maybe we should talk to him, and see what he thinks.

Holly Kobayashi: I have nothing to do with him though.

Commissioner Camillo: I understand that.

Holly Kobayashi: My property, I didn't even sell it at the time. This was an approval that he went through all on his own. He never even purchased this.

Commissioner Camillo: How is your name here at the top of the paper?

Donna DiMauro: Mr. Green, I forget his name now, he was the original developer.

Chairman Hall: He was from New York wasn't he?

Craig Minor: Down in Greenwich, downstate.

Donna DiMauro: Originally, we both had parcels of land behind our existing homes. We contacted [inaudible], asked if he was interested in developing it. He said yes, he would purchase the land pending the approval of the subdivision. We were both in agreement at the time that the approval was what the plan was. He backed out and left us holding the bag, so that's when I took over, and it was just two or three years ago that I did that. At the time of the approval we were both involved in that approval and the understanding was that we were going to sell our properties to him. But, that was the initial agreement and we were both in agreement with him.

Holly Kobayashi: I was not, these are agreements between Sabatini, they had nothing to do with me, because I hadn't sold the property, so I had no jurisdiction.

Chairman Hall: I think your issue is the electricity and whether we think the electrical service means functioning electricity, or if we believe that the job has been completed just by bringing it to the house.

Commissioner Sobieski: On a normal building, subdivision, in order for that to be considered serviceable, is the electricity brought in and wired up?

Craig Minor: Yes.

Commissioner Sobieski: That is exactly what we mean by service?

Craig Minor: Yes, those six houses have to be...

Commissioner Sobieski: I'm saying in any subdivision.

Craig Minor: This is a little bit unusual in that there were existing houses in this subdivision.

Commissioner Sobieski: I guess what I'm looking for is the definition of "service". Actual service means that it has to be hooked up into the house.

Craig Minor: Sorry, I can't help you with this. You are just going to have to make, do what you think is the right decision.

Commissioner Anest: When you were doing the subdivision, he was also going to buy 68 and 80?

Holly Kobayashi: No.

Commissioner Anest: You were still going to retain 68 and 80 on your own?

Craig Minor: The resulting lots, which would remain 68 and 80. At the beginning, 68 went all the way up to the back, and 80 went all the way up to the back.

Commissioner Anest: They were going to carve out the subdivision from the back portion that he was going to purchase and you were still going to have your own house.

Donna DiMauro: Yes, and a perk of it was going to be that we would have underground utilities brought to the home, and a new driveway,

Commissioner Anest: Underground utilities brought to the home?

Craig Minor: That is interesting. If we were having this conversation with Mr. Greene, you would want him to finish it, wouldn't you? Wouldn't you expect him to bring it all the way to the service panel?

Donna DiMauro: Actually I wouldn't. When a person purchases a new lot, my obligation ends when that (inaudible) is brought to the property line. Then the builder of that home is then responsible for bringing it to the home.

Commissioner Anest: It's a whole different scenario, because she said that he was going to be bringing the utilities to the home. To me it means to the foundation not inside.

Donna DiMauro: I never interpreted that in any other way.

Craig Minor: So you thought that you were going to be stuck with the hassle of hiring an electrician to do the last tiny percentage of the job?

Donna DiMauro: I went along with that because I was getting the opportunity of having underground utilities. That was not a burden to me because it would be perfect for me to have underground utilities.

Craig Minor: From your point of view, but it was still an obligation on him. He was required by the subdivision regs to give you that, and if he convinced you that it was a "perk", well good for him because he sold you a bill of goods. He had to do it.

Donna DiMauro: But like you said, it's underground now, power outages, and all that.

Craig Minor: But it's an obligation. He is required to do it.

Commissioner Aieta: Let's look at the other utilities in comparison to this. What was your requirement for the sewer? Your requirement is to provide a stub to the property line, not to bring it all the way in and connect it to the toilet bowls. Okay, what about the cable TV? Their responsibility is to take it from the poles to the house. You can treat this the same as that. You provided it, you provided it to the foundation. Now it's up to somebody else, you have provided the service, here's the service, now take it to the other step. I just changed the service at my house, the electric company had to come in and change the wire, they own the part outside the house, and I was required to change the main part, even the main part outside that goes into the panel. I was required to do that. Their responsibility ends at a certain point, and the same thing with telephones. They are only required to bring it to the panel, not to start running wires into your house. That's how I base my opinion as to what happens here. I do have my opinion as that she has fulfilled her obligation, now it's up to the other Commissioners to make a determination, and you will have a consensus, and will solve the Planner's problem.

Commissioner Sobieski: Did you get a new driveway?

Holly Kobayashi: (Inaudible)

Chairman Hall: Yes or no, did you get a new driveway?

Commissioner Camillo: The other developer, he's gone, and you took over, so why would it be any different?

Donna DiMauro: It isn't.

Commissioner Camillo: Then it should be to her house.

Donna DiMauro: It is to her house.

Commissioner Camillo: It's right to her foundation? That is where you need an electrician to come in to connect. Just like, we build a house, he brings it to your house, and then you get an electrician to bring it into your house and then you run the wires where ever. She did do what she is supposed to do.

Craig Minor: Does anybody feel differently? Shall we go onto the next item?

Craig Minor: The next item is the leader from the downspout to the catch basin. It's not in the Condition of Approval, but it's on the maps. If you look carefully, there is this dashed line [pointing to subdivision plan on the monitor] from the corner of the house to the catch basin, and another one to the other house. On other plans it is labelled as "6 inch PVC".

Donna DiMauro: It's not that I feel I shouldn't install it, the issue is that there are no leader drains from this home.

Craig Minor: Which home are we talking about?

Donna DiMauro: 80. 68 has it, because they have a leader drain on that side of their house. Number 80 does not have a leader drain that goes into Packard's Way, so why would you have a six inch pipe attached to nothing?

Craig Minor: And my answer was, because it is on your plan. But that's why we have the difference of opinion.

Commissioner Aieta: Where does the roof drain to if there is no leader, if there is nothing coming off that side of the house? It drains on the other side of the house?

Hollis Kobayashi: It drains on the north side, well, not on the north side, but it drains...

Commissioner Aieta: It just comes off the roof and sheet flows across the property. It's not tied into anything. So it's only on the north side of the house. There is a leader that comes from the gutter to the ground on the north side?

Holly Kobayashi: No. The gutter goes to the north, from the east and the west side.

Commissioner Aieta: So if she did put in the PVC pipe, it would be the same situation, it would stub out at the foundation, but never connect.

Chairman Hall: So 68 has it, but 80 doesn't.

Commissioner Aieta: Show me the downspouts on your house. Where does the water come out?

Holly Kobayashi: There are several spots,

Craig Minor: Are you the house on the south?

Holly Kobayashi: Yes.

Chairman Hall: There is one on the side, but is there one on the other side?

Holly Kobayashi: Yes.

Chairman Hall: It's got to go somewhere.

Holly Kobayashi: I have a picture of it. There are several on the south side, and the east side and the west side.

Donna DiMauro: The point is, it says on the plans that any roof leader that empties into the catch basin on Packard's Way is to be connected underground to a six inch PVC pipe. There is no roof leader there, so there is nothing draining into Packard's Way.

Holly Kobayashi: It says here in the development, it says in the approval, number three, "the developer will be required to enter the drainage agreement with the Town of Newington for all roof leaders that discharge roof leaders."

Craig Minor: Right, and that is a boiler plate requirement. All new houses have to do that. All of the six new houses would have to do that. She would have to connect it if there was a leader, but...

Chairman Hall: On the other side.

Craig Minor: Right, but there's not.

Commissioner Aieta: Where is the leader on the house? Will you show us where the leader comes down? Okay, did everybody see where the leader is?

Commissioner Camillo: This isn't for us, this is for (inaudible).

Craig Minor: I need guidance from the Commission on this, because when the day comes that Donna is looking for her bond release, it's going to hold up release of her bond. You have the authority to do it because this is kind of a gray area. If it was something involving one of the six new lots, there is no question, she would have to do it. This is a gray area because these two houses were existing when the subdivision was approved.

Commissioner Camillo: You sold your property as part of the subdivision approval process.

Commissioner Anest: Can you read the language about the receivers?

Craig Minor: I don't have that plan with me. Holly is reading from her copy of it. I have it back in the office. Sheet C-7.

Holly Kobayashi: I have sheet 3.

Commissioner Aieta: Read it right off the plans, C-3. Okay, sheet C-7, see if there is a note on there.

Commissioner Anest: Holly, what do you have it on?

Holly Kobayashi: Oh, this is the...

Craig Minor: "The developer will be required to enter a drainage agreement with the Town of Newington for all roof leaders that discharge into drainage structures." Okay, that's for all roof leaders on new houses that will discharge to drainage structures in the new street. The question is, are these two old houses, should these houses have roof leaders that discharge to drainage structures? One of them does, the other does not. So it's really, really gray. This rule applies to the six new houses. That note goes on all of our subdivision plans, that's standard procedure for all new houses. For existing houses, it's a gray area.

Commissioner Aieta: If there was a leader that was discharging, if there was a leader on the north side, northwest side of that property coming down and discharging into the ground, I would say, she would have to connect. But the one that is on the south side, the sheet flow, the sheet flow is across the front of her property.....

Craig Minor: This doesn't say she *has* to connect. Number three says that *if* she connects she must execute an agreement with the Town. The Town will let people connect their leaders to a catch basin, but only after the homeowner signs a disclaimer saying that this is at my peril; if it backs up, it's at my risk. That is what number 3 is talking about. The Town Engineer insists on that per counsel recommendation, so if a problem emerges for the homeowner, the homeowner can't say, "Town, your services just created a problem for me." No, you were using it at your own risk. That is what this is about. Number 3 doesn't mandate the connection. Number 3 mandates that the homeowner give us a "hold harmless" before we let them connect.

Commissioner Camillo: The Certificate says, "all roof leaders of the proposed six new homes shall be connected to the storm drainage system and shall not "daylight" on the yard areas." This is for the six new homes.

Craig Minor: Right, it doesn't necessarily apply to the two old ones.

Commissioner Camillo: Is there any more on this?

Craig Minor: The last is the lack of signed mylars on file. What do you want to do about the roof leader issue?

Chairman Hall: It's a non-issue, there is no roof leader on that side.

Craig Minor: But it's on the subdivision site plan, so like I said a minute ago, when Mike goes out and inspects the property, he's going to come back and say, "this pipe shown on the approved plan is not there."

Chairman Hall: And we are saying that we don't feel that it needs to be there.

Craig Minor: Okay, that's what I needed to hear.

Commissioner Aieta: I would say, put a note on the mylars pointing to that line saying that it is not required.

Craig Minor: No, I don't think we should do that. The developer would have to hire an engineer or surveyor to do that. It's in the minutes, that's enough.

Holly Kobayashi: There were sidewalks removed, that was an amendment of the original plan.

Craig Minor: That was before the mylars were finalized, and that is part of the record. That did not require going back and hiring an engineer or a draftsman or a surveyor just to do. Just put it in the minutes, and it's in the minutes tonight, showing your intent, that's fine. Your intent is now in the record.

Craig Minor: The final issue is the complete set of mylars from this development which were never filed in the Town Clerk's office. When I started here three years ago, there were only a couple of mylars up there. I will let Donna explain why that happened, but the bottom line is, the consulting engineering firm that did the work still has the original mylars in their possession, and they are not going to release them until they get paid. My understanding is that there was a dispute between Donna and the original developer over this, but I will let her explain it. The complete set of mylars should have been filed six years ago, and I don't know why Ed allowed the project to proceed.

Commissioner Aieta: The mylars have to be filed, whatever dispute you have about the mylars, they have to be filed. You are already in default because they haven't been filed in a timely manner.

Donna DiMauro: That was a different developer.

Commissioner Aieta: You are still responsible to provide the mylars to the Town of Newington.

Donna DiMauro: Frank Davidowitz was the engineer, he got Sampson I think it was, he told me that there was a set of mylars submitted, but they weren't stamped.

Craig Minor: We have a copy of them in the engineering department, but the requirement is that the original mylars be filed with the Town Clerk's office. That still needs to be done.

Donna DiMauro: I just assumed when I took this over that that had been done, because that was a condition of approval. They have to be filed, as a condition of approval, so I just assumed that that was done.

Chairman Hall: Apparently it was not. Do the mylars exist?

Craig Minor: Yes, the engineers have them.

Chairman Hall: So, somehow, some way, you are going to have to get those mylars and get them to the Town Clerk.

Commissioner Aieta: They have to be, otherwise this is an illegal subdivision. You put the whole subdivision in peril.

Chairman Hall: We'd have to shut down the job.

Commissioner Aieta: We have to have the mylars, they have to be signed, they have to be stamped, it has to be a legal document.

Commissioner Sobieski: Do we have a time frame as to when we think these mylars might be released?

Chairman Hall: As soon as they are paid for.

Commissioner Sobieski: Well, that's what I'm asking. Have you talked to the engineers to make arrangements?

Donna DiMauro: No.

Chairman Hall: Well, maybe we should put a time limit on it.

Commissioner Sobieski: I think that's a good idea, because I find it kind of hard to believe that is has been going on all these years. I know people have asked questions from the general public about this. Why the mylars weren't in place, I don't know how long it has been out here that the bill has not been paid, but I think...

Commissioner Aieta: We don't care how the bill is paid, we want the mylars. I don't care how they get here, we want the mylars in the Town Clerk's office. They have been talking about this for two years. We need the mylars on file, you don't have a legal subdivision.

Craig Minor: Well, not exactly, because she hired an engineer to do a map of the lots and Ed allowed the then-Chairman to sign it, I don't know why, and that is what is on file in the Town Clerk's office. The bare minimum to meet the State of Connecticut requirements is on file. But all these, C-7, C-3, C-4 that we have been talking about tonight, the only copy is in the engineering department. They are not upstairs in the Town Clerk's office where they are supposed to be, so people who are thinking of buying a lot can educate themselves on exactly what the whole project is going to look like.

Commissioner Camillo: Is that copy that you have in engineering stamped?

Craig Minor: Tanya will only accept an original mylar. I went over this with her.

Donna DiMauro: Who stamped it?

Commissioner Aieta: The engineer. He drew it.

Craig Minor: It has to have what they call a "live" stamp or seal.

Donna DiMauro: To clarify, I didn't do the dirty thing, I hired an engineer to do an update. That was not me, that was Mr. Greene. I was not in any way at all involved. So I don't know how it got approved.

Commissioner Aieta: What you are doing is that you are putting your bond in jeopardy. You say it doesn't have anything to do with the bond. It most certainly does. We hold the bond. If we don't have the mylars, we will pay the engineer to get the mylars, and take it out of the bond.

Donna DiMauro: I understand that, but I did not place it under the bond; what the bond consists of is all itemized. The mylars are not listed on there, so...

Craig Minor: The minimum requirement mylar is on file in the Town Clerk's office, and all the detailed information on the other sheets is all available in the Engineering Department, so it's only a, well, it's more than just a technicality, the fact that these plans were never recorded. It hasn't held up anything that anyone has wanted to do. It's just, sooner or later, it needs to be resolved, and that is why I brought it to the Commission now because it has to be resolved. The mylars have to be recorded.

Chairman Hall: Whatever the issue is, those mylars need to be in the Town Clerk's office, and I would like to use the date of September 15th, no later than that.

The motion was seconded by Commissioner Camillo.

Donna DiMauro: There may be some problems between myself and Mr. Greene over that, so, I don't know...

Chairman Hall: But that is not our issue, we're telling you that we want those mylars in the Town Clerk's office by September 15th. Just as we told you that you don't have to connect the electric, and you don't have to do the leaders, we're telling you those mylars need to be in the Town Clerk's office no later than September 15th.

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

XIII. COMMUNICATIONS

None

XIV. PUBLIC PARTICIPATION (for items not listed on the Agenda, speakers limited to 2 minutes.)

John Bachand, 56 Maple Hill Avenue: Welcome to my world. I'm glad that you had a taste of this morass that I have been going through for three years. I'm disappointed that all those conditions that I saw within your agenda packet regarding the conditions that had to be met, and there is still not the condition or the wording that requires the fifteen inch pipe to my property. The storm drain that was designed to protect the interest of my property. The wording is concise, it's not ambiguous in any way, and it was not done. It has to be done with my coordination of course, and no one ever came to me and asked me to do it. I've been asking for three years for the work to be done, so that has to be addressed. This other discussion I heard, and because it only affects my property I shouldn't comment on it I guess, but I heard a lot of mistakes made here. I've been following this closely, I live right next door to it, I've been living with it for three years. So apparently, from what the Planner said, you can forgive items that received approval.

Chairman Hall: That was on the agenda. Was there something else that you want to talk to us about? Packard's Way was on the agenda.

John Bachand: But it's also what I've been talking about for three years.

Chairman Hall: I understand that, so is there another issue that you want to talk about tonight?

John Bachand: What I would like to say is that after three years of bringing it up, I've never heard any back and forth discussion on it and finally I hear a little bit of discussion on it. I hope that the Planner will bring that to you at the next meeting to discuss the condition that was never met, the condition of approval. The other thing I would like to ask is when will the TOD regulations will be open for discussion? I think it is a good idea that one of the Commissioners mentioned to have it open to the public first and get some ideas. I think using the word "TOD" is just going to steer it towards what we don't want to begin with, and you are going to bring all these regional planners and CRCOG people and associates in and...Craig, you are smiling.

Craig Minor: Because that is not what they said. You never heard "CRCOG" or "regional" or anything like that.

John Bachand: I'm just saying, the goals of TOD, I don't know why you even have to use "TOD" in it. It's our property, it's town property we could have had zoning amendments.

Chairman Hall: Thank you.

XV. REMARKS BY COMMISSIONERS

None

XVI. CLOSING REMARKS BY THE CHAIRMAN

Chairman Hall: That's it. Thanks.

XVII. ADJOURN

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Serra. The meeting was adjourned at 10:05 PM

Respectfully submitted,

A handwritten signature in blue ink that reads "Norine Addis". The signature is written in a cursive, flowing style.

Norine Addis,
Recording Secretary