

NEWINGTON TOWN PLAN AND ZONING COMMISSION

August 26, 2009

Regular Meeting

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut

**I. ROLL CALL**

Commissioners Present

Commissioner Ganley  
Chairman Hall  
Commissioner Kornichuk  
Commissioner Pane  
Commissioner Pruet  
Commissioner Schatz  
Commissioner Aieta  
Commissioner Camerota  
Commissioner Lenares

Commissioners Absent

Commissioner Casasanta

Commissioner Camerota was seated for Commissioner Casasanta.

**II. PUBLIC HEARINGS**

Commissioner Pane excused himself from PETITION 26-09.

- A. PETITION 26-09 – Newington Town Plan and Zoning Commission, applicant, request for Zone Map Amendment R-7 Residential District to R-20 Residential District for southeast corner of Church Street and Church Terrace. Purpose of proposed amendment is to correct June 17, 1981 rezoning of Church Terrace subdivision which incorrectly designed corner property R-7 District.**

Chairman Hall: Ed, I presume that you are going to be the presenter?

Ed Meehan: I would like to enter into the record the staff report that is dated today, August 26<sup>th</sup> for PETITION 26-09. This staff report gives the Commission members and the public the background to this error which was the result of some confusion about the proposed zone amendment, map amendment in 1981. Attached to the memo are sections of the May 20, 1981 public hearing at which the petitions were submitted. There were three companion petitions for this section of Church Street and Church Terrace. The first one which we are dealing with tonight is the proposed zone amendment that was also a subdivision amendment, a six lot subdivision plan and Special Exceptions for proposed duplex lots. I believe the confusion occurs over the references both in the application, as well as in the maps to the full six lot subdivision and what I put into the record, and Commission members have talked about this, during the testimony it was attempted to be clarified that the corner lot was not to be included. It was the intent to keep that in the R-20 Zone. That is in the record here. Also, I've attached the actual motions that were made that night to approve Petition 649-81 for the zone map change and the formulization of the

motion, the person who made the motion did not correct the reference to the map, by excluding the corner lot and there was no discussion of changing that.

I have the map on the wall, I apologize for its grayness, this is a 1981 map, it was not a mylar back then, it was a different type of medium, so it does print kind of dark, but the corner lot which we are talking about now was put into the R-20, this is Church Street here, Church Terrace and these lots back to the PD Zone would remain the R-12, or R-7 zone. R-7 is the correct designation, essentially they are built out as R-12 lots. So that was the sequence. The reason it ended up being carried forward on the zoning maps was because the motion did not clarify or exclude the corner lot. The subsequent Certificate of Action in the letter to the applicant refers to the Church Street subdivision, Church Terrace subdivision, which is a total of six lots, so I think this amendment which you have before you as a public hearing tonight will correct that, and we could vote on it when you see fit and make a new effective date and then we would carry forth and correct the existing zoning map.

Chairman Hall: Any questions for Ed? Anyone from the public wishing to speak in favor of this motion? Anyone from the public wishing to speak in opposition? Anyone wishing to speak? Coming back to our table, this will be a correction in essence of something that was intended all along and now it will make it official. Also, it's important that we get this done before the Plan of Conservation and Development because they will be printing those maps.

Ed Meehan: That's a good point. I would recommend that you act on this at one of your two meetings in September and then if it's approved set an effective date prior to the new maps being printed, because we want to correct the Plan of Development map.

Chairman Hall: Any other questions. We are definitely going to close it. All right, we will close this petition.

Commissioner Ganley: Just a procedural question, can we put it on for the next meeting, since we have already closed it.....

Ed Meehan: You can carry it under Old Business.

Commissioner Ganley: Okay, that's my recommendation.

Chairman Hall: I think the consensus would be the same. Move this quickly.

Commissioner Pane returned to the table.

**III. PUBLIC PARTICIPATION** (relative to items not listed on the Agenda-each speaker limited to two minutes.)

None.

**IV. MINUTES**

August 12, 2009 Regular Meeting

Commissioner Pruett moved to accept the minutes of the August 12, 2009 Regular Meeting. The motion was seconded by Commissioner Camerota. The vote was unanimously in favor of the motion with seven voting YES.

**V. COMMUNICATIONS AND REPORTS**

**A. 8-24 Referral – Costello Industries – Costello Road Land Gift.**

Ed Meehan: This first 8-24 referral comes to you from the Town Council. It's for a gift of land from Costello Industries. There is a staff report on the table for two small parcels at the end of the cul-de-sac at Costello Road. As you see in my staff report both of these pieces are not building lots, they were actually approved on this subdivision for this project as, to be reserved land. Both parcels are restricted by a water course and wetlands and I've prepared and have a map there from our Conservation and Wetlands maps, and obviously neither of these has utility connections to them at this point. My staff recommendation would be to accept this gift from Costello Industries and to preserve this land to protect the wetlands water course and also as additional open space buffer between the properties, the commercial properties on the Berlin Turnpike and the residential property to the east, up on Culver Street, Cobblestone and Apple Hill. That is in consistency with the Plan of Development guidelines for good buffering along the Berlin Turnpike adjacent to residential areas. The Town does own some open space in this area, we have the Budney Road storm water detention basin which is just to the west here, a corner of one of these pieces would abut that so between linking the three pieces together, it's a nice piece of open space down there. There is really no, in my opinion, no probability that Costello Road could be continued north. It aligns with the Haltner property, but with the development of Lowe's Home Center the probability of the road going north I think is remote and from a traffic safety point of view I'm not sure a road coming out on the corner of Deming makes a lot of sense anyway, so I think it is going to stay pretty much the way it is, whether you take these pieces or not, but it does add to your open space.

Chairman Hall: Any questions of Ed? Ed, can you identify these? The Costello Road is already owned by the town, right?

Ed Meehan: Right.

Chairman Hall: Parcels that we are talking about are .69 of an acre and 1.06 which are these two rectangles. This section is the Halter property, that's private land.

Ed Meehan: Yeah, that's the south end of about twenty-two acres of the Halter property.

Chairman Hall: Right, because he extends up to here, actually all the way up to Deming. Then this piece, which is here, is town too, isn't it? Isn't that where the water course is?

Ed Meehan: Combination water course and detention basin which is down on the south side of the company we just approved the parking lot expansion for, On Site Gas owns the building now, and then it runs down to the back of the Global Granite.

Chairman Hall: Right, which is down in here, so essentially we would be extending pretty much a border.

Ed Meehan: Yeah, a linear border, because the storm water comes off of Apple Hill and all down through this area and goes underneath the Berlin Turnpike into, ends up in the ponds behind Mr. Sparkle and Stew Leonards.

Chairman Hall: And what you can't maybe see is that there is a little water course that is right up here and goes all the way down.

Ed Meehan: I have an aerial photo but I think the maps might be better, but this aerial photo, it's a 2003 photo, but that area hasn't changed. This is the pond at Apple Hill, this is Culver Street, and this is the corner of Cobblestone, so the two pieces that we are talking about are right in here. This is all the Haltner property, that's the back side of Lowe's, so the water courses come down through here, and that is the end of Costello Road. You just approved Perley Gagnons son's lot over here in the corner for, I think a six thousand square foot building. That's pretty much the site.

Chairman Hall: Any questions? At this point there doesn't seem to be any question or concern about this. Do they need a vote from us?

Ed Meehan: The Council is looking for your report, for their September 8<sup>th</sup> meeting. There is a draft suggested motion in your packet for later on, if you want to talk about it.

Chairman Hall: Any questions. All right, when we get to that point we will see if any more have developed, but again, pretty simple. The map was good, thank you for including that so we could see exactly what was what.

**B. 8-24 Referral – Ramblewood, Inc., Jack Scelza, Lamp Lighter Lane, Land Gift.**

Ed Meehan: This second parcel is actually an approved building lot that goes back to 1969. It was part of the Candlewyck Section 8 subdivision. Jack Scelza talked to me earlier this summer about his intention not to develop this. He forwarded a letter to the Town Manager and is offering it to the town. It's just a little bit over 18,000 square feet. The environmental features on this lot, up in the Lamp Lighter neighborhood, it's a very steep parcel, over twenty-five percent grade. It's on the bend. The frontage on Lamp Lighter is about 145 feet, but it drops rapidly downhill from almost elevation 260 down, no, from 300 down to about 250, 260 at the rear of the property. It is in a residential design district, which means that when this subdivision was laid out it was developed as a cluster development so abutting this piece to the north is a five acre piece of town open space which protects the slope in that area. I have attached the black and white maps showing where that is. On this map here, on the aerial photo, this is Lamp Lighter coming around the bend, so you are seeing the corner of the apartments at Landmark up here, and the piece that we are talking about is the building lot in here, and this irregular shaped property which is five acres is already owned by the town as open space. So this would add to that open space. It's an overgrown, rocky piece of property and in my opinion would be best left as open space. So that is another report that the Town Council is looking for your guidance on.

Commissioner Ganley: It doesn't show it on this well enough, but on this one, it seems to show that is connected by a very narrow corridor to the old playground.

Ed Meehan: Not this piece. That's further down.

Chairman Hall: Up at the top, it actually goes behind.....

Commissioner Ganley: What's this in here?

Ed Meehan: That's another one. This whole Little Brook, Lamp Lighter, Candlewyck, area has little chunks of open space. If you go all the way around and come down, there is a small park, it used to be actively used, and that connects to Barn Hill.

Chairman Hall: I was going to say, they turned that over to Barn Hill when Barn Hill was being built.

Ed Meehan: And there is a pathway connection to Barn Hill. This is further south of that.

Chairman Hall: It is very steep. Any questions on this? Ed, is a guard rail in front of this section as people come around that corner?

Ed Meehan: Yes, I believe that there is. I went down the other day, and I'm pretty sure I saw a guard rail. If there isn't, there probably should be.

Chairman Hall: That would be my suggestion because if we are going to own it.....

Commissioner Pane: There is.

## **VI. NEW BUSINESS**

### **A. PETITION 24-09 – Assessor's Map ID #S2892400, Fenn Road, Kent E. Stoddard Jr., applicant, K.E. Stoddard et al owner, request for two (2) lot subdivision, R-20 Zone District.**

Alan Bongiovanni: Good evening, for the record my name is Alan Bongiovanni, President of the Bongiovanni Group here in Newington, licensed land surveyor in the State of Connecticut, representing Kent Stoddard and family in this application to subdivide a 7.2 acre parcel of land in the R-20 zone on the westerly side of Fenn Road opposite Elliott Lane. I'm sure everyone in this room is familiar with the property, they use it for grazing horses in that field, and that is the intent, to have the majority of the property maintained as a horse farm. Mr. Stoddard's daughter, Jessica, who is here this evening intends to build a home for herself and husband on that property and this allows us to do that. This is in the R-20 zone, the lot, as we have shown meets and/or exceeds all of the dimensional requirements of the R-20 zone, there are no public improvements proposed with this development. There is sidewalk currently along the frontage of Fenn Road, across this entire property, and utilities servicing the property are located within the Fenn Road right of way and we show how they come up and service the house. The house will be set back 350 feet or so from Fenn Road. The layout of the lot took into account the fact that we have over a seven acre parcel of land in the R-20 zone and we did a schematic layout of how a road might fit in there, if it ever came to get developed in the future, but it's not anyone's intention to develop this property, other than to put one home on it. So with that, if you have any questions, I'd be happy to answer them.

Chairman Hall: This is served by public water and public sewer?

Alan Bongiovanni: MDC sewer and water and they are shown on the plan. They are on the easterly side of Fenn Road so some crossing will have to take place in the pavement, whether it's a soft cut or a jacking under the road, but that will be determined by the MDC.

Chairman Hall: And you said that there is a plan for a road, but not with this parcel.

Alan Bongiovanni: No, what we did was, we just looked at how a road could service this if it was to be developed in the future and that is how we came up with this line here, bringing in a road at the optimal point for sight line on Fenn Road and that determined that south line. Just to make sure that we positioned the house so that if it ever came to be, the property could be subdivided in an orderly fashion, but it's no one's intention today, nor do they have any designs in the future, to divide the property.

Chairman Hall: And you are saying that the road would be for the rest of the property, that this particular parcel would be set by itself?

Alan Bongiovanni: Yes.

Chairman Hall: Any other questions?

Alan Bongiovanni: I would like to request if the Commission finds as I do that this is an as of right subdivision if you could move it to Old Business. They would like to try to start construction and get it closed in before the winter months.

Chairman Hall: Ed, do you have anything to add to this, this evening.

Ed Meehan: I just saw the updated map with the utilities, the map you have in front of you doesn't show utilities and that was something that we wanted to make sure was looked at. The other comment I have, you can see in the staff report is the alignment of this private driveway, the Town Engineer and I looked at this and I would think that the driveway, if it was curved a little bit to come opposite Elliott would be a safer location, in the sense that drivers coming out of Elliott, and I know that the traffic generation is not going to be high on either side of Fenn Road, have eye contact when they meet on Fenn Road. I don't think that would disturb too much of the lower part of the field. That would be a recommendation, and then the final comment that you see here is at the time of plot plan and submitted, the building permit, the frontal grading plan needs to be established. So, I'm not prepared, I don't have a motion for this.

Chairman Hall: Well, if we did it on the 9<sup>th</sup>, that still would give them time to get started, that's only two weeks.

Commissioner Aieta: What is the rational of trying to position a one house driveway across from Elliott? I mean, it's not a traffic generator, it's one home.

Ed Meehan: What is the rational?

Commissioner Aieta: Yeah, I mean, just to line.....

Ed Meehan: So that we have, drivers when they meet, sight line and you don't create a street jog, and I agree, one house is not going to generate a lot of traffic, and Elliott is a cul-de-sac, it's not going to generate a lot of traffic, but if you have a chance to position your driveway where it is the safest location, I would take advantage of it. I don't know what that does to the utility layout, that's the only thing. I made that comment before I saw the utility layout. Is MDC going to require, this going to be an easement area for MDC?

Alan Bongiovanni: No, they are going to be house laterals.

Ed Meehan: All laterals?

Alan Bongiovanni: Yes, it would all be laterals, it wouldn't be main line. The applicant doesn't, I hadn't seen these comments, before this meeting. The applicant really doesn't have an issue with putting some curvature in the driveway. The reason that we showed it as it was is that we wanted to preserve as much of the field for the horses as possible. By snaking, or curving the driveway a little bit to the south to be opposite Elliott Lane probably won't be a problem. We can show that in detail when we do the site plan and plot plan.

Commissioner Ganley: Assuming that we take care of this at the next meeting, would that give you sufficient time to review the kind of things you have to, and then prepare the proper motion for us?

Ed Meehan: Oh sure, this is a very simple.....

Commissioner Pane: We could probably do this tonight.

Commissioner Ganley: So, it's all sewed up, etc., that would be my recommendation, let it go to the next meeting.

Chairman Hall: Any other questions?

Commissioner Pane: I'd like to make a motion that we move this to Old Business, Madam Chairman. It's pretty simple.

Chairman Hall: I don't hear a second. We'll discuss it anyway, even though there is not a second.

Commissioner Camerota: I'll second it so that we can discuss it.

Commissioner Pane: Thank you.

Chairman Hall: You are going to second it for the purpose of discussion, okay.

Commissioner Pane: What we have it, he has already said that he could curve the driveway towards the south, to line up with Elliott a little bit, and the only thing we have to do is put something in the motion to cover the grading that the Town Planner mentioned. I'm sure we could do a motion up and get this off our agenda so that it is, so we are free and clear for the next meeting.

Chairman Hall: We probably could, but I think it puts undue pressure on Ed to get it right, and when we vote on something I want to make sure that we don't have to go back and amend it, because we didn't have enough time to think it through and write it up correctly. That's just my opinion.

Commissioner Ganley: I also think it safeguards the interest of the petitioner that this be done, and done correctly, dot all the i's and cross all the t's. I think he then gets a nice clean go ahead on his property, and there is no reason to come back for some little glitch.

Chairman Hall: Any other questions?

The vote to move PETITION 24-09 to Old Business was defeated with one in favor (Pane) five opposed and one abstention (Pruett).

Alan Bongiovanni: Thank you very much.

Chairman Hall: Thank you for your presentation

## **VII. OLD BUSINESS**

- A. PETITION 22-09 – 121 Styles Avenue, Lenares Landscape and Design, 76 Stonehedge Drive, Newington, CT 06111 applicant, Lenco Realty, LLC owner, Contact Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Site Plan Modification Section 5.3 to add 1,400 sq. ft. to an existing 1,200 sq. ft. commercial building, I Zone District. Inland Wetland Report Required.**

Commissioner Schatz moved that PETITION 22-09 – 121 Styles Avenue, Lenares Landscape and Design, 76 Stonehedge Drive, Newington, CT 06111 applicant, Lenco Realty, LLC owner, Contact Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Site Plan Modification Section 5.3 to add 1,400 sq. ft. to an existing 1,200 sq. ft. commercial building, I Zone District be approved based on the development plan entitled “Improvement Location survey Lenares Landscape and Design, LLC” Sheet 1 of 1, Scale 1” = 20’ prepared by BGI Land Surveyors and building elevations, dated February 19, 2008 showing new addition showing vinyl siding split face block matching existing structure.

The Conservation Commission’s Inland Wetlands agency approval Permit No. 2009-10 is acknowledged and made a part of this site plan modification approval.

The motion was seconded by Commissioner Pruett

Chairman Hall: Discussion? Ed?

Ed Meehan: It’s a straight forward modification for the addition, you were waiting for the Conservation Commission’s report, which you have, so it’s ready for your vote.

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

Chairman Hall: Why don’t we do all of the 8-24 Referral Reports now. Domenic, the Costello Road Report, please.

Commissioner Pane: Sure, I’ll tell you what, Madam Chairman, I’m going to do the next one, because I have to excuse myself from the Costello Road.

### **8-24 Referral Report**

#### **Lamp Lighter Lane**

#### **J. Scelza, Ramblewood, Inc. – Land Gift**

Commissioner Pane moved that the TPZ submit to the Town Council i’s favorable 8-24 Referral Report to accept the gift of a vacant 18, 640 sq. ft. an unimproved parcel, identified as Assessor’s Map 28 Lot #63 located adjacent to 211 Lamp Lighter Lane.

The Commission finds that the Town’s ownership of this parcel will add to the existing 5 acre conservation open space in this neighborhood.

The motion was seconded by Commissioner Kornichuk.

Chairman Hall: Questions, comments? Ed, anything you want to add to this?

Ed Meehan: No.

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

Commissioner Pane excused himself from 8-24 Referral Costello Road.

**8-24 Referral Report**  
**Costello Road**  
**Costello Industries Land Gifts**

Commissioner Pruett moved that the TPZ submit to the Town Council its favorable 8-24 Referral Report to accept the gift of two (2) vacant properties from Costello Road, located approximately 160 feet north of the Costello Road cul-de-sac.

The Commission finds that the Town's ownership of these parcels for conservation purposes will protect the wetlands and water course which runs through this land and increase the open space buffer between the Berlin Turnpike business corridor and Culver Street residential neighborhood.

The motion was seconded by Commissioner Ganley

Chairman Hall: Questions, comments, Ed?

Ed Meehan: Nothing to add.

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

Commissioner Pane returned to the table.

**VIII. PETITIONS FOR SCHEDULING** (TPZ September 9, 2009 and September 23, 2009)

- A. PETITION 25-09 – Assessor Map 11-335, 00A, East Cedar Street (North Side), 29 acre vacant parcel approximately 730' west of the intersection of East Cedar and Russell Road, Marcap Co., LLC, owner, Toll Brothers, Inc., 53 Church Hill Road, Newton, CT 06460, applicant, represented by Attorney Thomas J. Regan, Brown Rudnick, LLP, 185 Asylum Street, 38<sup>th</sup> Floor, Hartford, CT 06103-3402 request for Zone Map Amendment CD Commercial Development District to R-12 Residential District. Schedule for public hearing September 23, 2009.
- B. PETITION 27-09 – Market Square – Municipal Parking Lot “Newington Waterfall Festival” September 26, 2009, Val Ginn Committee Chairperson, 15 Golf Street, Newington, CT 06111 request for Special Exception Section 3.2.8 B-TC Zone District. Schedule for public hearing September 9, 2009.
- C. Proposed 2020 Plan of Conservation and Development – Chapter 126, Section 8-23 Connecticut General Statutes, public hearing, October 14, 2009.

Chairman Hall: East Cedar Street.....

Ed Meehan: That is the night that you designated for Public Hearing. The applicant has been apprised of that and they are getting their presentation ready. It's been referred also to the Conservation Commission by the applicant in their role as sort of the open space agency for the town. Toll Brothers asked for input from the Conservation Commission and I know that it was discussed at their last meeting, a little bit.

Chairman Hall: Okay. Petition 27-09, Market Square?

Ed Meehan: The annual Waterfall Festival, I think this is fourth or fifth year that this has been held by the committee. I know that they will ask for action that same night. As you can see here, it's scheduled for the 26<sup>th</sup>.

Chairman Hall: That's a Saturday, right?

Ed Meehan: That's a Saturday, yes.

Chairman Hall: And then the Plan of Conservation?

Ed Meehan: The Plan of Conservation and Development, all the referrals that precede this, your public hearing on this have been made. It's been submitted to the Town Council, it will probably be on the Town Council agenda for September 22<sup>nd</sup>, they took the second meeting off this month. It's been submitted to the Capitol Region Council of Governments, Town Clerk's office and it's up on the web page, the town web page under the Planning Department right now and I've asked IT to have links off of that to the front page because a lot of people don't go into the departments. With that link you can download the whole plan, which is quite a large document because of the mapping, and the pictures or anybody can just download sections of it. That is a statutory requirement for Plan of Developments, to have it on your web site, so that is all set up. We are ready to go.

Chairman Hall: Okay, any questions on any of these? I'm sure other things will come through between now and then.

Commissioner Pruett: Regarding the Waterfall Festival, maybe you could consider doing that for a couple of years?

Chairman Hall: Yeah, that's what we did the last time.

Commissioner Pruett: Save some time, it's successful, it's ongoing,

Commissioner Ganley: I can't vote on that, I'm one of the sponsors.

Chairman Hall: Right, how many can't vote on this then, because I'm not going to be here next time. You two can't because you are sponsors, so we have one, two three, and then we will have some fill-ins. Okay, so just be aware of that, thank you for mentioning that now. Put everybody on alert. I'm sure we will get other things, but right now that is all we have on the horizon.

**IX. PUBLIC PARTICIPATION**  
(For items not listed on agenda)

None.

**XI. STAFF REPORT**

Ed Meehan: The first item that I have for the staff report is a report on the table, Three Angels Church. I want to take some time and walk you through this report. This has been sort of perking on the sidelines since late July and we haven't brought it forward because some of the mapping which accompanied the original e-mail request wasn't complete and actually, as you know, the work going on down there in July, no one was satisfied with, given the rain events and the problems so we wanted to make sure that they got a new site contractor on board and they started to make some progress. The gist of this is, as the Commission members know, I won't go over old history in detail, but there was a stipulated agreement, a settlement, which required Three Angels Church to move their HVAC system from the southwest corner of Church Street to the north side on Pane Road so both systems were designed in well units on the north side, on

the two north corners. Associated with, and this was their decision to go outside with the utilities they had to provide Versa-lock wells, drainage within the wells, baffle fencing and landscaping, and I won't belabor the history but there was a whole issue of the quality of the noise and so forth affecting the neighbors. At the same time that this was brought forward as you recall they also had to clean up their site plan as far as some egress sidewalks which the building code required and also adjustments to the grading and the design of the handicapped ramp on the easterly side of the building which affected some drainage and grading. So all of that was brought forward and then as a result of the stipulated judgment back in January which this Commission ratified as a party back in February, they brought in these revised mylars and the Chairman signed them in March. That gave them the building permit to go ahead and start getting back on this site. Jumping to where we are today, in the interim, they went out and hired another mechanical contractor, I don't know the whole history of that other than they got a good one this time I think and they figured out that they could bring everything inside. That by changing some of the lower ground floor design, the wells outside have been eliminated, that is the point of the site plan changes. They are proposing just to use AC pads for the compressors, again on the Pane Road side. They still would be required to do the fencing and the landscaping. That affects the grading plan on the corners a little bit, obviously, eliminates some of their drainage work, and so it cleans up that side. Also on the Church Street side they eliminated the handicapped space, something that this Commission supported so that improves the grading on that side also. So actually the site plan modifications with the exception of the changes affected by the utility wells are pretty minor. They have one sidewalk now leading north to Pane Road which is okay. They are proposing some refinement and grading again on the east side because of proper grade for the handicapped ramp and some drainage over on that side. That is where their retaining walls are going to be placed. That was always in the original plan, but this grading is now, looks like it is pretty final. They are proposing one new sidewalk which wasn't on the plan before. It would come from around the front and would lead out to where the portico is. It comes out of an egress door there. The plan listed it as bituminous, it really should be concrete as I noted in my staff report, all sidewalks should be concrete down there. The significant change, and maybe that is not the right word, significant, but the change that brings this to your table and in which I need guidance on, go back to the requirement in the original Special Exception back in 2005 that states that changes to the proposed church architectural elevations may require a new Special Exception approval from the Commission. The changes which are before you tonight, and I have full drawings as well as the reductions here that I need your guidance on, are pretty simple. They are proposing to eliminate the steeple, there were two sky lights on one of the ridges which they are requesting to eliminate and they changed a door, which they don't need any more, a pass door to two windows. I can go through all that in detail, point them out on the elevations. What I need your guidance on is, does this merit, in your opinion, bringing this back as a Special Exception amendment, or can this be done administratively and you know, a letter in the file and notes acknowledging this, and they proceed with these revised elevations. In looking at the site plan changes these would normally be treated as field changes by myself or the Town Engineer, but the elevations again, because of the Special Exception I wanted to bring that to your table. Coincidental with that is the last comment here, is their site development bond. It is coming up for completion, they are behind as we know around this table in their site work. Their bond is in a CD which is going to be renewed on the 20<sup>th</sup>, I met with them yesterday and I said, that I would not support any reduction in the bond at this point but they should at least get their completion date extended to next spring. Their goal, with their contractor on site now is to have this property at least boxed out into a binder course before the end of paving season. I don't think they are going to have enough time to do loam and seed and landscaping and I don't think they should rush it. That is why I'm suggesting next spring for a completion date. That's part of this, it's a typical site development bond, but that's where this stands. If you want me to get out the drawings on the building elevations or the changes to the site plan, I'll be happy to do that, get into as much detail as you want so I can go back with a decision from the board to explain to the Church what they need to do. If you say they need to submit a Special Exception amendment,

then they need to get an application and put themselves on the agenda to bring the changes relative to the steeple, the skylights and the window before a public hearing.

Chairman Hall: First of all, do you want to see anything put up, or do you feel comfortable with what we are talking about as to where these changes are and how they look. Does anybody have a visual? Ed did bring some.

Ed Meehan: I've got the three sets of site plans for this project.

Commissioner Aieta: I want to see where the door they are changing, what door they are changing because the building is.....

Ed Meehan: The door that they are changing, on the staff report, there is a little bump out on the Church Street side.....

Chairman Hall: What amendment, or, A-5?

Ed Meehan: A-5 is the sheet. It's the bump out on the Church Street side that had on the Pane Road, at the bump out there was a pass door, I guess it went downstairs to a stair well and.....

Commissioner Aieta: Which side was that?

Ed Meehan: The Church Street side.....

Commissioner Aieta: The Church Street side looking north.

Ed Meehan: North, to the corner.

Commissioner Aieta: That door is already in.

Ed Meehan: Well, they are showing on this, taking that door out, I'm talking about, not the door in the corner Frank, the one over closest to the road and they are showing two, looks like casement windows.

Commissioner Aieta: Which elevation?

Ed Meehan: A-4.

Commissioner Aieta: The north elevation?

Ed Meehan: Yes. It says.....

Chairman Hall: That's the Pane Road side, not the Church Street side.

Ed Meehan: The bump out is on the Church Street side.

Chairman Hall: Right. So that is going to be the casement windows, sort of over near where the stack was supposed to be, or is. So that was going to be a door, and it's no longer going to be a door, it's going to be a double casement.

Ed Meehan: At this end, shows the perspective of the building without the steeple and up on this ridge here they had like two dome skylights, which, the roof's all built, and those aren't in there, and they are removing that and removing the steeple. Those are two of the three architectural

changes. The other one is this door being replaced by windows. The site plan, as I said, by not building the wells, it eliminates a lot of the drainage work, the grading, the walls. They claim the noise. The requirement that the noise be verified is still part of the stipulated agreement and still goes back to your original Special Exception, so that is not released. That still has to be tested at the time they look for a c.o.

Chairman Hall: And the decibels that they gave us are on that Attachment II. Okay, questions?

Commissioner Schatz: The question that I would have, thinking about it, is that if you put a letter in the file and say, everything is fine, will this send a signal that, let's change something else? I'm just, you know, later on, say, well, that was easy, let's do it, we'll change something else that we want to change.

Ed Meehan: Well, if they do, they have to come back and the Commission again can determine, I don't know what else they can change, who knows what they can change, but again, they are locked into the elevations and any, it says may require, so that is why I'm not going to make that interpretation. I made it the last time, because it was, in my opinion, last time they changed architects, they changed plans, they brought their utilities outside. That was a significant change. I guess what I need to hear from you, what they are proposing now, does that rise to the level of a change that warrants a Special Exception.

Commissioner Schatz: So the air conditioning is supposed to be quieter, inside, which they originally were going to have inside.

Ed Meehan: Well, back to the original, 2005 what we thought was 2005.....

Commissioner Aieta: No it's not.

Ed Meehan: Not back to 2005.

Commissioner Aieta: No.

Ed Meehan: Well, 2005 nothing was outside.

Commissioner Aieta: What they submitted at the time, they hadn't even determined what was proposed.

Ed Meehan: Well they had grading, but they.....

Commissioner Aieta: They didn't show any air conditioning at all.

Commissioner Ganley: This doesn't change their footprint on the lot however. Same length and width and I'm guessing when we talked about the elevation, my perception at the time was, if they wanted to build a taller steeple, they would come back, here they are eliminating the entire steeple so the building is going to be shorter.

Ed Meehan: It is going to be essentially what you see right now.

Commissioner Ganley: Okay, okay, let's see what else. A door to a window....

Ed Meehan: Right, they don't need the door there.

Chairman Hall: I was going to say, the door really wasn't going to go anywhere.

Commissioner Ganley: I know but that's.....

Chairman Hall: That is the other change.

Commissioner Ganley: That's an architectural, I'll call it a cosmetic change to the building. I'm not in favor of them coming back to be honest with you.

Commissioner Pruet: I just wanted to question, do you think that bond is adequate at \$44,000?

Ed Meehan: Well, again, and it's in my staff report, I don't think you ought to reduce it at all.

Commissioner Pane: You can't increase it, you can't increase it now.

Ed Meehan: Yeah, it goes back to the engineer's estimate back in March.....

Commissioner Pruet: Well, if it expires now.....

Ed Meehan: Well no, you want to extend it.

Commissioner Pruet: Right, we have to vote to extend it on the motion.

Ed Meehan: Two things, you would grant an extension, but you would also require them to bring in documentation that they can't let it lapse. Now they could convert it from a CD to a money market, do anything they want, but we have to have security of \$44,000.

Chairman Hall: And that's due on the 20<sup>th</sup>? Do they have to roll it over or whatever when it comes due on the 20<sup>th</sup>?

Ed Meehan: Yeah, the paperwork they showed me yesterday, their CD matures on the 20<sup>th</sup>, and they wanted to know if they could change it, and I said that I'm not going to recommend to the Commission you reduce it.

Chairman Hall: No, definitely not reduced.

Ed Meehan: I think one of their members put the money up.

Commissioner Ganley: My suggestion would be that you could handle it administratively. It seems, and I'll just give an example, if they were going to put a fifteen foot addition on one of the sides, or they decided the steeple was not close enough to Heaven so they were going up another twenty-five feet, that would be to me very, very significant but to eliminate the thing entirely, the footprint is essentially the same and the other two changes are cosmetic. I wouldn't want to burden us once again with something like that. I think we have a lot of stuff on our agenda.

Commissioner Pane: I don't want the Commissioners, these two issues here, them coming in to make these changes, and the bond are two separate issues, just so that people don't get confused. The bond issue is a totally separate issue, we're not ready to release any of it, and it should remain valid. As far as this other issue, I think that our regulations are pretty clear. The reason, when changes are made, to a site plan, the reason they have to come back to us is to protect the adjacent property owners. So, and that is why this is in our regulations. Special Exception is a special exception, it's not automatic. It's given to somebody as a Special Exception and we have special rules on this so that, to protect the adjacent neighborhood. If there are changes, and I think these changes are substantial enough that, we, we shouldn't

decide on these. If they want to make these changes, then they would have to come back to a Public Hearing so that the public has a chance to come in. Don't forget, we had somebody here that was pretty upset with what they were doing just adjacent to, just south of them, with drainage problems and other issues. So, my feeling is, if you are going to make any changes, it should come back to a Public Hearing so that the public has a change to speak about it, because after all, it's a Special Exception and we have to protect the adjacent neighborhood.

Commissioner Aieta: When this was originally approved, you know my involvement, all of you know my involvement with this, when this was originally approved, one of the things that was important was that the, to allow the Special Exception, we wouldn't, the neighbors wouldn't want to allow a special exception for a commercial building or something like that. It was specific to a church. What you have up there now, with the changes that they are proposing, without the steeple, you don't know what that building is. Looks like a convalescent home. I've never seen a church in my life with that many windows in it. There's no, it doesn't stand out so that it looks like a church, and a steeple on that was one of the things that would give that appearance, that it is a church. What is the reason, did they give a reason why they want to eliminate the steeple?

Ed Meehan: No, I'm presuming that it is financial, but I don't know why.

Commissioner Aieta: Well, I would just say to Mr. Ganley, two meetings ago you said we are not supposed to consider financial reasons as burdens of.....

Commissioner Ganley: The difference is as it relates to developing the property, this property is already developed. You can't say to the petitioner, look, you have to let me develop this property because it is going to cost me some much money, I'm putting all this money into it. That's a hardship we can't allow into it, in this instance, we're already given our approval. It's only a matter of shortening the steeple, because they don't have the money.

Commissioner Pane: But that's still a financial gain, and you can't take any financial gain, you can't take any financial situation in town Planning and Zoning matters or ZBA matters. There is no such thing as a hardship for financial, financial hardship.

Ed Meehan: Let me just interrupt, I think the important thing here tonight is the procedure and the consensus of whether you want to bring them back or not. You are getting into some issues here that may come up at a Public Hearing and would be discussed if you do bring them back as part of the Special Exception, so it is really a procedural question tonight. But, I would be very careful about imposing anybody's personal perception on what they think a church is to any applicant of any religious faith in this country. That's enough said right now, but this is keeping with you procedure tonight.

Commissioner Aieta: Well, the procedure is pretty cut and dried if you read the regulations, if it's an architectural change it has to come back to the Commission under Special Exception, it has to come back for Public Hearing. It's right in the book.

Chairman Hall: So do we consider this an architectural change when we have windows, air conditioning and a steeple?

Commissioner Schatz: You have one window.

Chairman Hall: Well, I know, but still, it's a change.

Commissioner Ganley: I don't want to see them back here again, I would say no.

Commissioner Kornichuk: I would have to say yes, the minute you mentioned the steeple, I think it's an architectural change.

Commissioner Lenares: I think it kind of triggered me when Ed first said the significant changes that were being brought. You said, they were additional changes, but like you said, they are significant to the architectural development of this building. It's kind of like subconscious, that maybe that is how it should be handled. If they are significant, the steeple, I mean, I agree with what Tom said, if they are not going twenty-five feet higher, they are actually eliminating it, but I also see what Bob was saying, in that it might open up a can of worms, saying we might make some less significant changes in the future with this being so easy to do, I don't know.

Commissioner Camerota: I think because of the history of this particular applicant, we should make sure that we follow all of the procedures, that we should have them back to get a modification of the special exception. Just because there have been issues with it, and I think if there is any question of whether or not they should be brought back, it should be brought back.

Chairman Hall: And also as far as the neighbors, because again, if we do this without their knowledge, and it's finished and they come back to us, the neighbors come back to us, and say, wait a minute, what happened to the steeple that we saw to begin with, and we say, well around the table we decided that it was okay. So I would like kind of a consensus or a motion....

Commissioner Pane: When it comes back to Public Hearing, doesn't it open it up to other things, like improving the buffer system too, Ed?

Ed Meehan: No.

Commissioner Pane: Why?

Ed Meehan: Because you are acting on a special exception amendment to that amendment, which goes back to 2005 which said, changes to the architecture may require a new special exception approval. It doesn't open the floodgates to start tagging on more landscaping.....

Commissioner Pane: Well the reason I ask if that they have stripped the land and every vegetation, right to the property line of the abutting property, and I don't know if there is any trees going along that back property line. There are up on the top, but not next to the property line.

Ed Meehan: That was shown, that is the way that the original site plan was designed.

Commissioner Ganley: We have to be very careful that we do not use bringing them back as a ruse to impose brand new sanctions, or raise issues that are outside that which they bring before us.

Chairman Hall: Right, they are bringing us the window, the HVAC and the steeple, those are the three items. Now, internally we may again when we talk about this bond tonight, maybe also discuss the fact that we want to make sure that over the winter that we don't end up, they can't get the landscaping done. Well, are we going to end up with the same kind of thing with snow run off and the heavy rains that we had in the winter with the flooding. We're got to be careful about that too, so I think we talk about that when we talk about the bond.

Commissioner Pane: The site guy that is there now knows what he is doing, and he has taken care of the drainage problem.

Chairman Hall: And let's hope that he stays on long enough to get the job done before the winter. So I'm getting the feeling that we are going to bring this back to Public Hearing. The majority feel that this needs to come back for Public Hearing, to cover ourselves and to fulfill the requirements in our zoning laws.

Ed Meehan: Any particular night that you want to do that?

Chairman Hall: We have Toll Brothers on the 23<sup>rd</sup>.

Commissioner Pane: They may not want to.

Chairman Hall: Who may not want to?

Commissioner Pane: The Church might not, they may change their mind now that they know that it has to come back to Public Hearing.

Commissioner Camerota: Can we put it on the 9<sup>th</sup>? We don't really have.....

Chairman Hall: You should be able to.

Ed Meehan: We have a two week notice. If you want to do it on the 9<sup>th</sup>, I have to get a legal ad in tomorrow, over to the Herald for publication.

Commissioner Aieta: Is that enough time, Ed?

Ed Meehan: Yes, we do it by e-mail. We can do it. Okay, we will do it September 9<sup>th</sup>.

Chairman Hall: September 9<sup>th</sup>, for Three Angels.

Ed Meehan: Thanks for the guidance, and if you want to delve into these plans, they are available.

Chairman Hall: Anything else under Staff Report?

Ed Meehan: No, I told you about the Plan of Conservation and Development, and just quickly, we are still in pretty good conversations with Mr. Hayes and the Department of Transportation on trying to work out a memorandum of understanding for the Cedar/Fenn busway, and the National Welding site. I think we are making some headway. We got a little discouraged a couple of weeks ago with some changes that they didn't tell us about, as far as drainage control which we feel is important, but the Deputy Commissioner Martin has been very helpful down at ConnDot. The big issue is commercial people getting financing.

I did talk to the project manager for the Holiday Inn Express, I said, where are you guys going to be with your site plan coming into the closing down of the construction season and he tells me that they are going to have the pile of dirt, and hopefully have the site at least boxed out by the end of November. I asked if they were going to have it paved and he said, they don't have enough money to get it paved. I said, well, when the leaves come off the trees, the folks down below, Gail Circle down there, have been very patient, you've got to start moving on this.

Chairman Hall: Laurel Circle, not Gail. Laurel Circle.

Ed Meehan: That's another project that keeps on going and going and going. There isn't a lot going on inside the building.

Chairman Hall: Let's go to the Three Angels Bond.

Commissioner Camerota moved to add the Three Angels Church Bond to the Agenda. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

**Three Angels Church SDA**  
**580 Church Street**  
**Site Bond.**

Commissioner Camerota moved that the site completion bond for Three Angels Church SDA, 580 Church Street, be maintained at \$44,000 and the completion date for bonded site work be set at May 30, 2010.

The motion was seconded by Commissioner Pruett.

Chairman Hall: Ed, do you have anything to add to this?

Ed Meehan: No, other than they are not ready for any bond reduction.

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

**X. REMARKS BY COMMISSIONERS**

Commissioner Pane: Are you going to let the Church know that they can't have services there until the c.o.

Ed Meehan: I didn't know about that until you mentioned it to me and I certainly will.

Commissioner Pane: And the other thing, could you just give me an update on the status of the concession on Maselli Road.

Ed Meehan: The chief of police controls the vending in the town right of way, and I had sent an e-mail to Lieutenant Darby back in early July asking him to observe it. I've done some drive-by, I'm not down there at a peak hour, I asked the vendor to move his van further south, I don't think he has cooperated with me in that venue, and I did get a comment from a couple of people who have observed problems with left turning trailer trucks into Maselli Road from Pane to the point where someone comes up, if they are coming out of say Maselli and they get to the traffic light and the food cart is there, a vehicle, a trailer truck or even a passenger vehicle may not be able to make the swing unless they cross the yellow line because there are people standing in the road, so I'm, I got back to the original administrative, it wasn't a town manager's administrative policy, but it was an administrative letter on the five or six vending areas that were set in back in the early, I guess, 1990's, and I prepared something to send down to Chief Mulhall asking him to give him the option to move further south, or move all together, because I think the traffic on Maselli is standing to pick up now that people know that it is the back way into Sam's.

Commissioner Kornichuk: Are those his boards that he leaves in the road?

Ed Meehan: Yeah.....

Commissioner Kornichuk: I go there later at night, and I always see, like planks on the side of the road. How do you leave something on a public street?

Commissioner Aieta: Just for information for the Commission. There is a police report that was done because there was almost an accident there, Officer Guffrey investigated it, there is a case file there, he has made recommendations in that case file, that this is a public safety issue, and he is suggesting that they not be at that location. That is part of the police file that he reported. He actually went down there and witnessed some problems. They have been monitoring it, and there is a police file set up.

Chairman Hall: So what's it going to take, an accident before they.....

Ed Meehan: I think, when these areas were designated on a map, it was called Newington Fair back then at the time, and there is a footnote, to be determined when Newington Fair opens, which I believe at the time when that was looked at was there was, even then concerns about traffic moving down Maselli and I pointed that out in my memo to the department and hopefully they will take that under advisement. I didn't know about that report.

Commissioner Aieta: Yes, Officer Guffrey was the one that did the report, and there is a case file set up on it.

Commissioner Schatz: I have, with Toll Brothers coming in, should we, I'm just asking, be thinking about a mining regulation of some type?

Commissioner Aieta: There is already something in the regulations about mining.

Ed Meehan: Earth removal. Not to specifically talk about that, because it is not at public hearing yet, but there are exceptions in the earth removal ordinance, regulations I should say that an approved site plan is exempted from the Special Exception requirements of earth removal, and we went around with this with Mr. Stamm and the new Dunkin Donuts site where it came in under the guise of a site plan but in the end he had to take out over 30,000 cubic yards of rock. He did come back and get it in as a Special Exception, but that's a scenario where you have to be vigilant that you look at it for what it is, that the tail is not wagging the dog.

Commissioner Schatz: Well, in our mission statement, we said we were going to protect the ridge line, so what's protecting it? I'm just throwing that out there.

Commissioner Aieta: To develop that site you are going to have some, tremendous amount of earth work out there, it's probably all rock so they definitely are going to be blasting and .....

Commissioner Schatz: The last developer was going to take two years to get the road in.

Ed Meehan: Well I think again, because it is going to be coming to you in a couple of weeks, just as a zone change, and that is a policy decision, not to get into the fine detail of grading and rock removal.

Commissioner Schatz; Even Dunkin Donuts up there, they've got some problems with the backyard of that thing. Some big problems.

Ed Meehan: Yeah, and that was pointed out to them and that is why I was very happy that we took a site bond, because the developer did not want to post a site bond, he pushed us to get in there, and he did what he could up on top to slow the water down, but he's got to get his guys back up there and do better. Water comes over the top of that like a waterfall.

Chairman Hall: And rocks too. Anybody else?

**XII. ADJOURNMENT**

Commissioner Kornichuk moved to adjourned the meeting. The motion was seconded by Commissioner Pruet. The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Norine Addis,  
Recording Secretary