

NEWINGTON TOWN PLAN AND ZONING COMMISSION

February 13, 2019

Regular Meeting

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

**I. PLEDGE OF ALLEGIANCE**

**II. ROLL CALL AND SEATING OF ALTERNATES**

Commissioners Present

Commissioner Michael Camillo  
Commissioner Michael Fox  
Commissioner Domenic Pane  
Commissioner Stanley Sobieski  
Commissioner Hyman Braverman-A

Commissioners Absent

Chairman Frank Aieta  
Commissioner Anthony Claffey  
Commissioner Stephen Woods  
Commissioner John Bottalico-A  
Commissioner Giangrave-A

Staff Present

Craig Minor, Town Planner  
Andrew Armstrong, ZEO/Asst. Town Planner

Commissioner Braverman was seated for Commissioner Woods

**III. APPROVAL OF AGENDA**

Craig Minor: Mr. Chairman, the agenda was amended yesterday and filed with the Town Clerk because the developer of the Newington Ridge Preserve withdrew his request for a bond reduction. So the agenda was amended to reflect just Newington Ridge Preserve so the Commissioners, if they wanted to have a discussion among themselves or with the developer, he said he would be here tonight to answer the questions and have a discussion, and the agenda was already amended to take bond reduction off of the agenda.

I have one other item, the applicant for New Business item B, the site plan modification at 94 Holmes Road, the applicant had a conflict with the schedule for tonight, so he asked if that could be postponed until the next meeting. So I ask that New Business Item B be removed from the agenda.

So, when we get to New Business we will have Newington Ridge Preserve and I believe the developer will be here, and the Town Engineer is here as requested to answer any questions that the Commissioners may have on his comments, his thoughts on the new road, so he is here to answer any questions or have a discussion about that if the Commission wants.

Again, I recommend that you delete New Business, Item B.

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*Thomas O. Roberts*  
Town Clerk

#### **IV. ZONING ENFORCEMENT OFFICER REPORT**

Andrew Armstrong: Before we get to the ZEO report I have two items that I'd like to start off with. One being a temporary sign application, it's a request for a temporary, coming soon banner consisting of 32 square feet for O'Reilly's Auto Parts. The sign is located at 3443 Berlin Turnpike and the proposal is based on the approved and future building frontage of 120 feet, which meets our zoning regulations. The building is under construction, the banner will utilize a wooden stand up frame as shown in the photo. The applicant is requesting the banner for two periods of 25 days from February 19<sup>th</sup> to March 15<sup>th</sup> and also March 17<sup>th</sup> to April 11<sup>th</sup>. They will comply with the 25 day time frame requirements. I recommend approval of this application with the condition that the banner be outside of the front setback as required by the temporary sign regulations.

Vice-Chairman Camillo: Anyone have any questions?

Commissioners: No problems.

Andrew Armstrong: The next item that I want to get into was that I wrote a memo to the Commissioners about long term stays on the Berlin Turnpike or more specifically motels, and I wanted to see if anyone had any comments.

Commissioner Pane: Is this part of the task force?

Andrew Armstrong: It's not part of the task force. The task force has discussed that among other items such as hoarding, but I did utilize the task force in my research to develop the memo.

Commissioner Pane: Did you utilize the Town Attorney?

Andrew Armstrong: I have not, no, I have not.

Commissioner Pane: Is the Town Attorney part of the task force?

Andrew Armstrong: He is not. The task force is made up of various departments in the Town, but I don't believe that legal advice is really needed at that level.

Commissioner Pane: Well, you mentioned the legality of certain things so when you mention the legality of certain things, I would think that you would consult the Town Attorney. One question I have is, some places here which are actually advertising apartments. Wondering if you figured out how to address that?

Andrew Armstrong: I think enforcing efficiencies stays signs would be in keeping with our zoning regulations, so I think that is something we can enforce. Going back to your comment about the Town Attorney I think there is more research needed into the legal aspects of this enforcement for long term stays. I've just heard from the various departments on the task force that the legal aspect is really the biggest aspect of it. Does anyone have any questions on the contents of the report?

Commissioner Sobieski: Andrew, I was the one who put the complaint in about 174 Francis Avenue because some of the neighbors had called. We have gone through this long before you were here, and it's, now he is parking on railroad property, so I just want everybody on this board to understand, I see several of the neighbors here, I'm sure they are going to address this issue. Thank you.

Andrew Armstrong: That is something that I am working on and he is coming up on his, the end of his 30 days which was given him, which was not in this report, came after, and it ends on February 14<sup>th</sup>, and we are having discussions now, talking to the attorney on some other alternative avenues rather than our tradition which hasn't given us much success in the past.

Commissioner Fox: Hasn't given us any success. Also, I think it's almost the same thing at 366 Maple Hill Avenue, you gave him 30 days from January 10<sup>th</sup> and so it's a little bit over that. Has there been any action?

Andrew Armstrong: I met the home owner on site on Monday, he had four vehicles all of which were registered at that time, but that is something that I will monitor considering the history.

Commissioner Fox: How about that flat bed trailer? Is that registered? As a commercial trailer?

Andrew Armstrong: I don't know that it is, that's something I will have to look into.

Commissioner Fox: I passed by today and there were more than four vehicles and the one that I saw did have plates on it, the rest of them, I don't know, but I hope you will keep an eye on that. This is, shall I say, just as bad as his commercial property.

Andrew Armstrong: Any other questions? Thank you.

V. **PUBLIC PARTICIPATION** (For items not listed on the agenda, speakers limited to two minutes.)

Peter Hoffman, 32 Francis Avenue: Good evening. I'd like to tag on a little information on the comments made by the two Commissioners to my left concerning 174 Francis Avenue. I'd like to find out if anything has actually been done to make him come into compliance with the court order that was issued, such as having the blight officer go on site to make sure that the number of cars is maintained as agreed upon and as I drive by it, it doesn't look like it is because there are cars right up to the very beginning of the fenced in area of his property. So I would like to know first of all, has the blight officer been on site to maintain the number of cars as according to the legal document that he signed that he agreed to?

Andrew Armstrong: I have not, and I haven't received a blight complaint or a complaint about the actual physical business relating to the lawsuit. The complaint that I had was all of the storage of the vehicles on the railroad property which I am in discussions with the Town Attorney right now to determine what our next action will be.

Peter Hoffman: There are eleven unregistered vehicles on that property right now, an enclosed trailer which hasn't moved for at least a month. He's also got his flatbed trailer there, and he has had it up to a quantity of twelve unregistered vehicles, and my question is, what gave him the authority to use that property? Did he get okay from Middlesex, because they were using that as a staging area for the busway?

Andrew Armstrong: I'm not certain that he had authority. He gave me some sort of response that he had authority to use it dating back to the 1920's and his explanation wasn't exactly clear. So I am discussing with the Town Attorney what to do next in relation to the lawsuit, and trying to do something other than our typical fine which hasn't worked in the past.

Peter Hoffman: He's got so many days to meet his thirty day requirement from what I just heard, what happens after that thirty days? Is he being fined? Is he being towed? What's going on with that property if he does not clear it out within the thirty day time frame that was, I guess you sent him a letter about it.

Andrew Armstrong: Yes. So his thirty day time frame ends tomorrow, the 14th.

Peter Hoffman: He's going to be busy.

Andrew Armstrong: Our typical process would be to do a land lien, but I'm going to try some other avenues on how to enforce this, just discussing with the Town Attorney about the previous lawsuit as well as some other avenues that might be available to us, something else that might be more effective.

Peter Hoffman: It doesn't really seem like the railroad is really that interested in it because I have contacted the railroad police myself, and they have done nothing about it. I'd like to find out if the Town has contacted them to see if they are getting any more response from it because this has been going on for quite a few years and it's way beyond what is really necessary. Through the petition that we had a couple of years ago, a whole lot of people in our neighborhood are getting tired of him flaunting his inability to comply, and if we don't have a blight ordinance that has any teeth to it, maybe we should just re-write it, or somehow make it enforceable. Tow them, tow the vehicles, if he is not doing what he is supposed to be doing, according to what he signed, just tow the vehicles. I'm sure somebody will come over and tell him.

Andrew Armstrong: That is something I will be looking into. I don't have a blight complaint for that property.....

Peter Hoffman: It's an ongoing complaint, he is supposed to stay within X number of cars on his property.

Craig Minor: Let me just jump in here. There is actually a blight process in Newington with a blight enforcement officer and a zoning enforcement officer, they happen to be the same person, two different jobs from two different silos, but the blight ordinance was worked out by the Town Council a number of years ago, and the way it was negotiated, and it was a negotiated ordinance, is that it has to be complaint driven. A complaint has to be filed with the Town Manager's office, which then gets sent to the blight enforcement officer for the blight ordinance to be enforced. I guess what Mr. Armstrong is saying is that no neighbor has filed a blight complaint, but I expect by tomorrow morning there will be one filed with the Town Manager's office, my crystal ball is telling me that.

Peter Hoffman: You never know. It would be amazing if something like that happened.

Commissioner Fox: To the Planner, is there a statute of limitations on the blight ordinance? In other words, if somebody makes a blight complaint to the Town Manager, is there a certain amount of time that the ZEO would have to take a look and then enforce it, does it expire at any time? In other words, if someone made a blight complaint, such as maybe Mr. Hoffman and nothing gets done, as far as I can see it would be necessary, if you want something to be done about it, make another blight complaint.

Craig Minor: I wouldn't say, because there hasn't been one, but as soon as one gets filed, it will be acted upon by Mr. Armstrong.

Peter Hoffman: Is there a form to fill out in order to address one?

Craig Minor: Oh yes.

Peter Hoffman: Where would that be obtained?

Craig Minor: The Town Manager's office.

Peter Hoffman: Thank you very much. Thank you.

Vice-Chairman Camillo: Anybody else?

Carla Santora, 93 Francis Avenue: I guess I'm going to start with a question that I didn't know I was going to have, but we were here a couple of years ago with the same issue, nothing ever got resolved, so why do we have to file something again if you haven't even, it hasn't been resolved.

Craig Minor: Oh, no, not at all. There was a court order that resulted from the petition that the neighborhood signed a couple of years ago and it is that court order that Mr. Armstrong is working from in contacting the owner and informing him that he is in violation of that court order.

Carla Santora: So why do we need another blight.....

Craig Minor: It's not that we need to use the blight mechanism, but that is another tool in our kit so let's use that tool also.

Carla Santora: Okay, so I have the same thought that Mr. Hoffman has, why doesn't someone just tow the cars away, I mean, what is behind that fence is not only a hazard for children, people could be sleeping in those cars, there is so much theft in our towns and the adjoining towns that border us and don't tell me people don't go in there and try to maybe steal things. What if somebody get hurt, the Fire Department couldn't even help someone if they had to. Not to mention the way that it looks. I won't even give people directions to my house to come from Willard Avenue. I give them from Main Street because when you come around there, it not only looks like a junk yard, it is operating as a junk yard. I have never seen one car repaired there, I've never seen anything done, the only thing there is junk cars that aren't registered that he is selling parts from, so what does that qualify as? My other question is, can you give me a dollar amount of how much the taxpayers have spent on this same case. Does anybody have any idea of what we have spent?

Craig Minor: No, I would say no, but that number probably could be tabulated.

Carla Santora: It would be nice to know, because I'm sure it's a lot of money, and the police, every time the police get called you are taking them away from another part of town, I'm sure you have noticed that there are multiple people running red lights, stop signs, speeding. There was another accident at Cedar Street and Willard just the other day. There have been accidents at Fenn Road and there are no police stopping these people because they are probably on Francis Avenue looking at these junk cars that don't run. I have another couple of suggestions. I think if we tow the cars we probably should tow them to Church Street, Royal Villa, Main Street, New Britain Avenue, park them in front of your houses, park them in front of your neighbor's houses, make a junk yard of your street and then see what happens the next time we come back here.

I'm ashamed to say that we have done how much, and nothing has been resolved and we have to live with looking at this junk every day. I'm ashamed because in my opinion, nothing has been solved and we have to deal with it, and now it has encroached onto Amtrack, we can't deal with that, it's not our property, now we have the blight issue, we have to file a petition and just, when is it going to end? That's my question. He is operating a business that he is not legally supposed to operate and no one has stopped him in ten years.

Craig Minor: He is legally operating a business. The problem is that he is going beyond the boundaries of what he is allowed to do.

Carla Santora: He's not operating a repair shop. He's operating a junk yard. I don't think that is zoned as a junk yard. Correct me if I'm wrong.

Craig Minor: I'm sure if he were here he would say it's not a junk yard. It's cars that he is working on, it's cars that he's cannibalizing, it's cars that he is fixing up. He would say it's not a junk yard, and.....

Carla Santora: Take a day off from work, sit there and see what goes on, because I see it every morning when I leave, every night when I come home, on the weekends, there are no car repairs going on there, he's going and taking off a part to sell, maybe on the internet, to somebody he knows, whoever, however he sells these things, but that is not operating as a repair shop. It's a junk yard on Francis Avenue and he might as well go on the internet and advertise like that because that is what it is. I'm just hoping after this meeting we will file what we need to file and somebody gets on top of it. I'm just terribly disappointed in the Town Attorney, I'm disappointed in this committee and I'm disappointed that nothing has gone on. Thank you.

Vice-Chairman Camillo: Anyone else?

Commissioner Pane: I think staff should answer that, because I think that is an untrue statement.

Craig Minor: Which statement?

Commissioner Pane: That nothing had been resolved because it was brought to a resolution and he complied with everything, it's, he's gotten out of hand again, but he did comply for a period of time. Am I correct?

Craig Minor: Yes, he was relatively in compliance for quite a while. What happened recently is I guess he feels that he can violate the regulations and court order with impunity, but that led to a notice of violation that was sent to him last month by the Zoning Enforcement Officer and he has not complied with it, and so the ZEO will be meeting with the Town Attorney in the next day or so, because, unfortunately, this is the way it is in America, the good guys have to file due process, and the bad guys don't. It's unfortunate, but that is the way it is. We have to file due process.

Commissioner Pane: For the staff, on that court case too, it was talked about whether it is junk or not junk, a junkyard, and it was found by the judge that it was not a junkyard. He was operating a legal business there behind the fence, is that correct?

Craig Minor: That is correct.

Commissioner Pane: Thank you.

Carla Santora: That might be what the judge decided. It's not reality, so I don't know what else we can do but.....

Commissioner Pane: What's bothering you behind the fence? It's the cars out in front....

Carla Santora: That's part of it, but if I broke the law you would put me in jail probably, if I ran a stop sign, if I drove drunk, if I did whatever, it's not kind of you are going to put me in jail, or kind of.....

Commissioner Pane: What law are you talking about?

Carla Santora: Because he is not running a repair shop, there are more cars in there than that was ever agreed to when he purchased the place.

Commissioner Pane: Have you been in there, counted the cars? How do you know this?

Carla Santora: Because you can see them and you can see them right up.....

Commissioner Pane: How do you see the rest of it?

Carla Santora: With a drone.

Commissioner Pane: That's up to the zoning official if he wants to go in there and do an inspection and everything.....

Carla Santora: It's a hazard, it's a fire hazard, it's a hazard for children, homeless people can be sleeping in there.....

Commissioner Pane: Children aren't supposed to be in there, they are not supposed to be in there playing around.

Carla Santora: Sounds to me like you are on his side.

Commissioner Pane: I'm not on his side, I'm a reasonable person and it's a fenced-in business that he is operating legally.

Carla Santora: A fenced in business not operating as it is registered as. Then it gets out of hand, and that's why. If it was registered as a repair shop you wouldn't have eighty cars in there.

Vice-Chairman Camillo: It's not a repair shop, he doesn't have a license to do repairs, he has a license to sell cars.

Carla Santora: Okay, so he's not selling cars, he's selling parts of cars that are not registered.

Commissioner Pane: He puts cars together, he sells the cars.

Carla Santora: Well, you can sit here any way you want, we're the citizens, we're the taxpayers....

Commissioner Pane: Maybe the staff can put all of the records together and give them the legal records from the court cases so that they can see, and he did comply. Is he out of

compliance now? Possibly, I haven't been over there. I'm not on anybody's side but you can't be ridiculous and say that he is operating illegally when he's not operating illegally.

Carla Santora: When we were here a couple of years ago, that's what came up, and the same thing going on now went on then, so what changed? I think somebody needs to get there, put your boots on, go out take a look, find out what is going on and take care of the citizens who are the taxpayers, who are the good guys. That's what I'm saying, I've said enough, I'm totally disgusted with.....

Commissioner Pane: If you could just clarify something for me, is he leaving vehicles overnight in front of his business?

Carla Santora: Yes, from time to time. Yes, and I will say as recently as maybe a month or so I saw it, and I was like, okay, and then it gets worse, and then he puts them away and now they are over in Amtrack, so you need to go by there more, but I still say, we're the taxpayers and we're the ones that really should be taken care of.

Commissioner Pane: The town staff, so talk to the Town Manager, our staff, our Zoning Enforcement, not the committee members.

Carla Santora: I'll be happy and I'm sure the rest behind me will be happy to attend a meeting with them. Thank you.

Commissioner Fox: Mr. Planner, if I'm not mistaken and you were here at the time when the original application was approved. I can remember I was on the Commission at the time, we were in the auditorium and we did not approve a repair shop, we did not approve a junk yard, as a matter of fact, the Chairman at the time had mentioned that he did not want this operating as a junk yard. What we approved was a wholesaler location. We expressly requested that he not be pulling power steering columns, pulling engines, this that and the other thing, so right away, if he is doing repairs, he is operating illegally as far as I'm concerned. In addition to Commissioner Pane's request I would appreciate it if you had the staff look up the original application, the minutes of the meeting at which it was approved, and how it was approved and the certificate of approval. Thank you and I hope you can have that for the next meeting.

Vice-Chairman Camillo: When he originally came it was no repairs, and then he came back years later to repair the cars that he was selling and that was the stipulation. We talked about it back during the court case.

Craig Minor: When you say original, as I recall, it happened before I got here, his original approval was modified after a while, and then there is the stipulated judgment which is now the law of the land, which is the third thing, which, do you want all of them, do you want the one that is current?

Commissioner Fox: We've already been advised of the court stipulations, I'd like to see things before it. The minutes from the original application was approved.

Craig Minor: Again, there were several applications. So maybe you mean the one that was in effect, the final before the court case a couple of years ago.

Commissioner Fox: Which should be I think around 2001.

Craig Minor: I think that was what was referenced in the zoning enforcement package.



Commissioner Fox: Thank you.

Vice-Chairman Camillo: Anyone else from the public?

**VI. APPROVAL OF MINUTES**

Commissioner Fox moved to approve the minutes of the January 23 regular meeting. The motion was seconded by Commission Sobieski. The vote was unanimously in favor of the motion with five voting YEA.

**VII. REMARKS BY COMMISSIONERS**

None

**VIII. PUBLIC HEARING**

None

**IX. NEW BUSINESS**

A. Newington Ridge Preserve

Craig Minor: Mr. Chairman, I see that the applicant is present so he might want to make a couple of remarks and the Commissioners may have some questions for him, and the Town Engineer is also here.

Michael Massimino, 15 Hosley Avenue, Branford, CT: My original application, request, a month or so ago was for a bond reduction after we replaced the base and replaced the binder. There was obviously correspondence that everybody saw from the home owners. Once I saw that I requested from Mr. Minor just to pull my request for bond reduction. I am going to be meeting with the home owners on the 28<sup>th</sup>, at one of their residences to try to address the different items that were on the memo and accomplish getting some of the stuff completed, I don't necessarily want to repeat everything that needs to get done, but I'm going to try to get as much done that we can. The piles of stone, the dirt, I can meet with two of the neighbors regarding drainage and grading issues behind lots 1 and 2. I have intentions to meet, listen, come up with a plan, do it and once they are satisfied with some of that stuff, re-request for the bond reduction. I have the memo from the home owners. The Town Engineer obviously wants to talk about the road, the new binder that we put in. As far as a punch list that we put in, for everything, no, we haven't done that. We need to establish a punch list on the overall site outside of the immediate concerns that everybody expressed. They also need to sit down and go line by line on what we feel is completed and what is not on the original bond.

Vice-Chairman Camillo: Commissioners?

Commissioner Pane: Michael, do you plan on, after you get this plan after the meeting with the Association to file a new plan, for a modified plan to eliminate certain things, and get the wetlands thing taken care of?

Michael Massimino: Yes.

Commissioner Sobieski: Quick question, actually several. You are going to, you said Lots 1 and 2, you are going to correct the drainage issue there?

Michael Massimino: Correct.

Commissioner Sobieski: What are you going to do about the rest of the lots, like where that foundation is that is poured and was fenced, it's now down, I mean, that's a liability.

Michael Massimino: I didn't even realize, I haven't been to the site recently, and I will put the fence back up. My intention is to hopefully get going again, build this place up, time has just flown by, started talking a year and a half ago, I know that there is a lot of frustration and frankly there is frustration on my side. We did everything we can, maybe it wasn't perceived to be in the most prompt order, but we spent a lot of time, quite frankly money and had no expectations of digging a road out twelve inches down the entire way. We did it. Weather went on, time went on, now it's being scrutinized that it shouldn't have been paved because the patch, we were also at the time of, you know, winter months, so there is definitely a lot to be discussed. I do want to get the place back up off the ground and now we are obviously in the heart of the winter but if the fence is down, and there are some immediate concerns, then we will address that immediately.

Commissioner Sobieski: All right. I think there was some question about where the sedimentation pond is in the back there, there is supposed to be some type of fencing so that kids don't go in there and get hurt?

Michael Massimino: There was concern, there wasn't any fencing on the original plan. There was concern from the Association so I think that is going to be part of our discussion and also part of our submission for a new site modification. We'll be adding and subtracting.

Commissioner Sobieski: When I walked the site originally, I noticed there is one vacant lot where there is supposed to be a yard drain, instead of being in the center of the swale where it should be, it's up and off the side. Are you going to correct that eventually?

Michael Massimino: I need you to be more specific in what you are talking about.

Commissioner Sobieski: There is a vacant lot, it's on the left I think, there was one house that was built, I guess a demonstration house, there was one next to it, then there was a open lot, I think Ms. Rockwell's house is over there, if you look you will see that there is a lateral that comes straight up, instead of in the center of the swale where the rest of them are, this is like way up and over here. I know when I walked that with Commissioner Fox on a summer's day I took a small stone and dropped it in there and I heard water, so I know that it is not draining correctly.

Michael Massimono: Okay.

Commissioner Sobieski: That would be a concern to me.

Michael Massimino: Okay.

Commissioner Sobieski: The other issue that I have is what's left in the bond money, everything in that project would be completed, would I be correct? The bond money will be used for the road but also.....

Commissioner Pane: We're not talking about the bond money.

Commissioner Sobieski: Excuse me?

Commissioner Pane: We're not talking about the bond money now.

Commissioner Sobieski: I'm asking a general question, I'm asking would this cover all of the other issues that are out there. That's all I want to know.

Commissioner Pane: The bond money is for the list that the Engineer came up with. It should be the last step, maybe I'm wrong.

Commissioner Sobieski: My only concern Commissioner Pane, is that I would want to make sure that these people have some kind of remedy that would satisfy everybody. I don't want to see the guy go bankrupt and I don't want to see these people get hurt. That's all I'm asking, so you know, we talk about the bond money for the road, I think 64, 74, 84 thousand dollars to put the road in with the binder course and the top course. Now my question now is what about the additional things that are within the area that need to be addressed.

Michael Massimino: I can answer that. The original schedule of values that was put together, it's all line items. Initially when we originally bought this project, we didn't have intentions of ripping the binder up and then putting in a new base. Obviously time went on, things deteriorated, I can't argue the fact that we did it. Obviously there was a lot of focus on that, but as it relates to the bond and the scheduled values, everything was modified, square footage, linear footage, I think it's a matter of requantifying what needs to be completed, what we are going to complete, obviously it's all a function, I'm asking for a bond reduction as I complete more items, then it is less of a discussion. I think it's pretty easily quantified, as far as the concerns of the road, patching, I do need to get my engineers involved to discuss this particular point. But the scheduled values that I should have quantifies items that were completed or not completed, they have a value associated with them.

Commissioner Sobieski: One other question, and I know that you don't have a copy, you can look at mine if you want. Is this the schedule values that you put in or.....

Michael Massimino: This is the schedule values approved by the Town, by the board when we bought the property.

Commissioner Sobieski: Okay, thank you.

Commissioner Fox: Mr. Massimino, this has been going on for a few years before I even was appointed to this Commission and one of the first nights that I was on the Commission there was a meeting with Ms. Chernakov and the rest and there didn't seem to be any satisfaction given to the home owners association from you, and since then, which was about a year and a half, two years ago, no offense, but I really haven't seen that much aggressiveness, that much from you want to complete the project. You put us off a couple of meetings last fall and the binder that you had to replace according to what Commissioner Sobieski and I see when we drive down there, it's already falling apart. So I think even asking for a bond reduction at this time in the first place is a.....

Commissioner Pane: He's not asking.....

Commissioner Fox: I'm speaking, do I have the floor.

Vice-Chairman Camillo: Yes, but he is not asking for a bond reduction now.

Commissioner Fox: I know that he is not, I'm just suggesting that to ask for a bond reduction in the first place, he did ask for a bond reduction and since has rescinded that request I don't

blame you because to me it doesn't look like you have done much of what you were supposed to do. I'm really hoping that your meeting with the home owners association will come to some agreement between you and them and that you will hold to the agreement and get these things going the way that they are supposed to be. Then we can talk about a bond reduction.

Michael Massimino: I just want to comment on a few things. With all due respect, there is no secret, the project has been stalled as it relates to vertical construction, so that's a known fact. There was a lot of concern when we had the (inaudible) truck in the back and we had fill piles in the back and yes, it might have been a year and a half, but as far as I'm concerned, I'm doing a substantial amount of work. We did go fast on a lot of things, some things that were beyond our control as relates to sub-contractors, and quite frankly getting the cash to do it all came into play, but when you guys hauled me in, as this point it's been so long I don't remember the exact month, there was the fill pile. I was personally on a machine, with twenty trucks getting rid of the fill pile. It was the biggest concern, and we did it. What has also been forgotten is, I hired an engineer regarding the whole issue behind Lots #1 and 2, to come up with a new grading plan. It went in, it got approved, we didn't discuss it with the adjacent home owners that were affected, and it got appealed. There were a lot of things that did go on that we were diligent about, maybe we didn't satisfy everybody, but we pulled back, again, I'm not really here to argue. I want to have a relationship eventually with the home owners that they will be satisfied, but it's not like we are in the same spot as a year and a half ago. It might seem that it is a long time, but quite frankly it's been over six figures of getting this thing from where it was to where it is and that's done, maybe the binder course is (inaudible), I'm not even disputing that at this point, but my point is, I think it's unfair to say that I haven't, maybe everyone would like it to go a lot faster, but within our resources and without our means, and without asking for a bond reduction, we did get a lot of work done. I guess it's a matter of opinion.

Commissioner Fox: I just don't see it. The grading behind Lots #1 and 2, it looked like you did something, but I happened to be back there just after one of those rainy days and it was a mess.

Michael Massimino: No question. It's a mess right now, but when we eliminated all of the fill, we graded it off, put in erosion mats, but we also had to submit, if you will recall, back I believe it was to this board, a new grading plan. That was put together by Bennett and Smyles and we did have to do additional things. We didn't do those additional things because we needed the site plan to be approved, and in fact it's a good thing that we didn't because it got approved and then it got appealed, so we then pulled back, so there have been things that have been done, maybe it's not getting done with the speed that everybody would like to see, but I'm here.....

Commissioner Fox: I certainly hope that you can square this away with the homeowners association and we can get this thing out of the way, successfully. Thank you.

Vice-Chairman Camillo: Anyone else? Craig?

Janet Chernakov, 4 Deming Farm Drive: As far as what was done behind Lots #1 and 2, yes Michael you did have Michael Bennett here. The one meeting that I went to when the Wetlands Commission discussed this there was a totally different plan than the next meeting, the homeowners were not consulted, it destroyed the backyards of Lots #1 and 2 and I am Lot 2, so I was told by the Town Planner and by the Wetlands, I don't know Eric's exact title, he's the Wetlands Agent I think for the Town, that the only way that I could stop this from being done is to appeal, so I was forced to appeal. That cost, there were legal costs and I

was supposed to be reimbursed, and I still haven't, and as far as you doing something, we appreciate it if you do something, but you did something that we were not aware of and legally you couldn't have done it, which is why we appealed. Trust me, I would be the first one to be thrilled if it was going to be done correctly and we never had to address this again. Although you have done things, they haven't, and you have incurred costs, it hasn't turned out to be the quality of work that we can then leave alone and move on.

Commissioner Pane: I have a question for you. Wasn't part of the problem the Wetlands required something special back there?

Janet Chernakov: The original plans that Michael had put in that the homeowners had agreed to was to put the drainage on the side of Lot #1, storm drain behind Lot #2, a storm drain behind Lot #2, connected to Lot #3 or directly into the wetlands. That was fine. The meeting that I went to from the Wetlands Commission, they said, they want some kind of filtration system, and we want it right before we get to the wetlands. By the time the next Wetlands meeting came, which I was not invited to, nor knew about, it was passed by Michael Bennett which of course, you had said you weren't even fully aware of what it was, that they wanted a ten foot trench and a huge rock plunge pool I think the term is, behind our homes which would totally destroy our backyards, for fertilizer on the hill where there is no fertilizer. I came to the Committee with an appeal to please don't enforce that on the site modification plan and ultimately I was told that the only way to get it off the books now that it was passed was to appeal, and there were legal costs involved. Had I know that this plan even existed, I would have been at that meeting, like I am at these meetings to say, this is not acceptable, and the homeowners, and besides which, there is also a clause in our by-laws that Mr. Massimino gave us that says no work can be done in the backyards of existing homes without board approval. The board was never consulted on that. That's what happened. We do appreciate Michael spending money, we only wish that it would be done so it is a one time deal and over with. That hasn't been the case. Thank you.

Vincent Morris, 20 Deming Farms Drive: You had mentioned sedimentation earlier, but is that the same thing as a detention basin?

Vice-Chairman Camillo: Yes.

Vincent Morris: I just wanted to mention in that regard, that it is next to our lot, and it's eroding. I don't know the proper term, but there is rock and the distance between the pond and our foundation is only about four feet, so we are a little sensitive to the issue. We'll be out of town on February 28<sup>th</sup>, so I just wanted to say that among many other things that are going to be addressed on any future punch list, we are concerned about the detention basin.

Commissioner Sobieski: Excuse me, I have a question sir. Are you talking the rip rap that is around the stones that are around there?

Vincent Morris: Yes.

Commissioner Sobieski: That's erosion of the rip rap that is there to stabilize the bank.

Vincent Morris: Yes, it is not as substantial as it was a couple of years ago. We are seeing the effect, and given that we don't have a whole lot of room, between the rip rap and the house, we are being less than cavalier about what might happen. We would just like this taken under consideration with all of the other side issues that may have a priority.

Commissioner Sobieski: Thank you.

Craig Minor: Anything for the Town Engineer?

Vice-Chairman Camillo: No.

Craig Minor: Thank you, thank you for coming.

**B. Petition 08-19: Site Plan Modification at 94 Holmes Road, 94 Holmes Road, LLC, owner/Applicant, James Cassidy, P.E. 630 Main Street, Cromwell CT Contact.**

Postponed

**C. Regulating Signage in Storefront Windows**

Craig Minor: This is on the agenda, at the last meeting there was a discussion about the sign regulations and do they address signs in the windows? What I told the Commission at the last meeting is that I thought that that the previous ZEO had a policy which I just recently found that he did, it was an unofficial policy because the sign regulations don't say anything about signage in the windows. The previous ZEO had sort of worked an understanding I guess would be the word to use, with the business community. As long as the windows aren't blocked more than fifty percent of the window, it wasn't an issue. That seemed to be acceptable because I hadn't heard any complaints about it, so that is the status quo. That is our procedure if you will, regarding window signage.

Commissioner Sobieski: Mr. Planner, I have a question, I seem to remember, it was a signage issue, and I don't remember if Commissioner Pane was on or not, with CVS, they had a lot of signs up. I thought at that point we had determined.....

Commissioner Pane: It wasn't about signs that I talked about....

Craig Minor: Yes and No, I do remember that, you're right.

Commissioner Sobieski: I can't remember Commissioner, whether you were on or not when we were talking about the original signs that blocked quite a bit of the windows, I thought we had a decision made that it had to be less than fifty percent, I know Mike was on here, do you know what I'm talking about?

Commissioner Pane: Architectural panels.

Commissioner Sobieski: It was something with the signage too wasn't it?

Commissioner Pane: No, they removed the architectural panels that TPZ made a condition of approval, they just took them out, and I had a problem with that.

Craig Minor: But that was a one shot thing, unique to CVS.....

Commissioner Pane: It was unique to CVS because the CVS was closer to the road and it was also I think the town center zone and there were some regulations in there, so they had, specific to CVS, that they had architectural panels on the windows there.

Craig Minor: What happened was the manager forgot, or there was a change in management, and the new management did something that violated the approval, probably didn't know about it, so that is how it come to my attention, but that was unique to CVS.

Commissioner Sobieski: I thought there was something about signs too.

Craig Minor: Again, that was unique to CVS, a special permit...(everyone talking at once.)

**X. OLD BUSINESS**

None

**XI. PETITIONS FOR PUBLIC HEARING SCHEDULEING**

- A. Petition 04-19: Special Permit (Sec. 3.11.6 Restaurant) at 2184 Berlin Turnpike Biana Real Estate LLC, Owner, Melissa Taricani, Applicant, Anthony Taricani, 230 Jubilee Street New Britain CT, Contact.
- B. Petition 05-19: Special Permit (Sec. 6.2.4 Free Standing Sign at 3443 Berlin Turnpike, Garrett Homes, LLC, owner C +Sign Service, Applicant; David Hemming, 500 Industrial Park Road, Deep River, CT, Contact

Craig Minor: There are two items, one is for a new restaurant, to be called Tony Baloney Two and they would like to open in the existing building at 2184 Berlin Turnpike, so I recommend that the public hearing be scheduled for the next meeting.

O'Reilly's Auto place wants to get a permit for a free standing sign. So again, I recommend that this be scheduled for your next meeting.

Commissioner Fox: What's at 2184 Berlin Turnpike now?

Craig Minor: It's on the east side, it's that little strip mall with four units, two of them are now occupied, someone said there used to be a pizza place there?

Vice-Chairman Camillo: Dave's Bagels.

Craig Minor: Right.

Commissioner Fox: Thank you.

**XII. TOWN PLANNER REPORT**

Craig Minor: There are two items in my report, I just want to make you aware that we need to tweak the site plan regulations to update the requirements for E & S Control. The regulations currently reference the 1985 standards and they need to be changed to reference the 2002 standards. It's kind of housekeeping, but we are required to do so, so I recommend that the Commission authorize me to proceed, notification of CRCOG, set the hearings and all of that.

The other item, the Economic Development Director just asked me to make you aware of a special municipal development workshop that CERC is about to put on for Newington. You will be receiving notice from the Mayor regarding that. I just wanted to make you aware to kind of save the date.

The RFP for the POCD which I showed you a couple of weeks ago, I've been waiting for the Town of Newington to go through the boiler plate that we have to contract that, and they recently completed that, and it has now been put out. It's on the Town web site, it's on the

state jobs list, and it's been sent to the Planning Community, so I image we will get applications shortly. That's all that I have.

**XIII. COMMUNICATIONS**

Commissioner Sobieski: I did send the CRCOG stuff as I get it, e-mailing it to everybody. Next meeting is next month.

**XIV. PUBLIC PARTICIPATION** (For items not listed on the agenda, speakers limited to two minutes.)

None

**XV. REMARKS BY COMMISSIONERS**

None

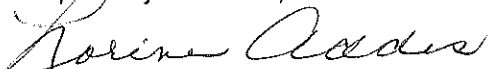
**XVI. CLOSING REMARKS BY THE CHAIRMAN**

None

**XVII. ADJOURN**

Commissioner Fox moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 7:50 p.m.

Respectfully submitted,



Norine Addis,  
Recording Secretary