NEWINGTON TOWN PLAN AND ZONING COMMISSION  
April 10, 2019  
Regular Meeting

Chairman Frank Aieta 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

Chairman Frank Aieta  
Commissioner Michael Camillo  
Commissioner Anthony Claffey  
Commissioner Michael Fox  
Commissioner Stanley Sobieski  
Commissioner Stephen Woods  
Commissioner Hyman Braverman-A

Commissioners Absent

Commissioner Domenic Pane  
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 Pane

III. APPROVAL OF AGENDA

Craig Minor: I have some changes to make. First of all I would request that you move the Town Planner report up to after the public participation so that the consultant who should be here, who is here, could make his presentation and get the Commission’s approval on that, and then I have four items to be deleted.

Under New Business, Petition 15-19, that’s Artichoke Basille’s Pizza request for outdoor dining. This needs a public hearing. It should have been on the agenda for public hearing, not under New Business, so we need to put it on the agenda for a public hearing for action at your next meeting, and then the site plan modification associated with that will also have to be done at the next meeting.

Under Old Business, the Vaishnav Parivar, the temple, their application for a special permit, they have asked that action be tabled on it for the moment. They are discussing on the board whether the conditions of approval that I had recommended are acceptable to the board. If they are not acceptable to the board, I imagine they will withdraw their application.

Also under Old Business, Update on Petition 01-18, that’s the O’Reilly Auto Parts. The consulting engineer was going to come tonight, but he asked me just to communicate on his
behalf that the MDC has worked out an arrangement so that they will have access to the sewer pipe that was covered over by the neighboring property owner, and so they will be able, O'Reilly's will be able to connect their sanitary system to the sanitary pipeline as was required by TPZ, so they don't need to make a presentation tonight. So again, I recommend deleting two items, I mean four items, New Business, A and B, and Old Business A and B.

Chairman Aleta: And I have a change to the agenda also, I would like to move Petition B Under Public Hearings to the first position, seeing that the Chief of Police and the Fire Marshal are here, and I don't want them to sit through a whole bunch of other stuff, they have more important things to do than sit here and listen to us. So, move B to A, and A to B.

Any questions on the changes to the agenda?

The Commission was unanimously in favor of the changes with seven voting YEA.

IV. PUBLIC PARTICIPATION (for items not listed on the agenda, Speakers limited to two minutes.)

None

XII. TOWN PLANNER REPORT

Glenn Chalder: Mr. Chairman, Members of the Commission, I had the chance to work with the Town and the Commission on the 2010 Plan of Conservation and Development and I'm excited to have a chance to work with you on the next update of that. In the last ten years the state statutes have changed, and essentially require the Commission to do an update within the ten year window. It is foresight of the Commission to start on the process now, our target end date is June of 2020, so that gives us about fourteen months.

The next major step for us is to actually get an agreement with the Town, and before we did that, I just wanted to review the scope, the schedule with the Commission, get your thoughts or changes about the process. Now is the right time to modify this and we can incorporate that, so if you have a couple of minutes, looks like everybody has it in front of them.

I suggest that we break the process down into three major steps. The first step is scoping and researching for the process where we would talk about and do research and investigation on issues that are important to the community and to the Commission. We have offered a choice in this scope here for the Commission which is known as a public workshop meeting where we would try to get as many Newington residents as we could to a common venue and engage them in talking about issues in the plan, and the other option could be a survey where we could get as many Newington residents as possible to engage in a survey that we could then use to help form the process.

So the issue I would discuss with you tonight is which of those you would pick.

The second major phase of the process is what we call organizing and strategizing. The POCD naturally breaks this down into three key component or aims. These are conservation issues, things in Newington that you want to protect or preserve and includes things like natural resources, open space, community character, etc.

The next piece of the plan might be development issues, how the community is going to grow or change in the future. This includes Newington center, transit-oriented opportunities,
housing, residential development and business economic development, and then, also infrastructure, which includes things like community facilities, roadways, bicycle, pedestrian, water and sewer utilities etc.

We would set up a process here to include "listening sessions" where we might have a topical meeting on the POCD and we would invite relevant Boards and Commissions to come and get some additional info for the POCD.

The third step of the process would be preparing and adopting the plan and this would be based on the input that we received, the discussions that we had, working sessions on a draft document and working towards adoption.

The very last page is our proposed schedule overall. We have arranged the major steps in the process to be adopted on or before June 9, 2020. After talking with Craig, we would prefer to have a dedicated meeting per month on the POCD process, I understand that the Commission meets on the second and fourth Wednesday, so our thought process was most of the Commission's official business gets conducted in the first meeting of the month, and we can dedicate the second to the POCD or schedule another meeting or a special meeting if the Commission needed to do that. We would like to preserve the ability for one meeting a month if you will to talk about the POCD.

That is an overview of the process. The listening sessions are slated to start in August. Normally we would not suggest that we do that, but since we are talking about the fourth Wednesday of the month, and in this day and age school has already started by that time, so we think we are going to be okay in terms of that schedule by starting then and listening sessions in August, September, October. Get the draft plan, have a public community input meeting again in January and then move forward.

Questions or feedback on this schedule, the topics, the process?

Chairman Aieta: Any questions from the Commissioners for the consultant?

Commissioner Woods: I agree with your approach, having the public meetings, trying to get as much from the public. It might be successful, it might not, and if it is not, maybe try to engage them on line, but at least try a face to face first. With the building being torn down in pieces here, I don't know where those meeting would take place, so that might take a little work on your part, but I'm sure you can work it out, using the library or where ever, the senior center, but as much as we can get feedback and opinions from, that is basically what we are here for, we are representing them, so we need to get a feel for what they are looking for and what they want.

I think you did a good job outlining the system, and I agree with you, I think we should meet on a monthly basis, even if it is a quick meeting, we can schedule the meeting that way. That's all I have Mr. Chairman.

Chairman Aieta: I would suggest that we meet the second meeting of the month, every second meeting of the month, and if we need a special meeting we will call it at that meeting.

Glenn Chalder: Thank you very much, I'm excited, I've been around enough to work on the prior plan and actually have been acting town planner for Newington at one time, so I'm familiar with the community in many issues and sometime we think it doesn't change much over time, and one of the things with the POCD is to get underneath, and start to look at different issues and see what really has planned and particularly what the changes are that
might affect the Town’s future, and that is the real purpose of the plan’s process is to make sure our regulations and programs are in place to effectively guide us into the future.

Commissioner Woods: One of the things that you are going to have to do is, change as a community, somehow we have to change as individuals and we have to make sure that is brought out, that we are not the same town that we were twenty-five or thirty years ago. I think that is a really important fact, we’re New Englanders, we hate change, good, bad or indifferent. We get stuck in our little ruts and we have to show that the make-up is not what it was. Thank you.

Glenn Chalder: Just to summarize Mr. Chairman, I will work with Craig to finalize the agreement. I think from the feedback from the Commission we are going to go with the public meeting right off the bat, we’re probably going to try to schedule that for the fourth Wednesday in June simply because that will give us enough time to get the publicity and everything else going. If we find that (inaudible) is available on another date, a Wednesday or something like that, we may decide to move it, but I’ll coordinate that with Craig. We’ll go on the topics and issues that are in our current plan, and we will also go ahead with invitations to the listening sessions which will start at the end of the summer. Thank you. Craig and I have our work cut out for us to get started on this, and I’m happy to see all of you again. Thank you.

Chairman Aieta: Thank you very much.

V. ZONING ENFORCEMENT OFFICER REPORT

Andrew Armstrong: Before I start my report, I have a couple of temporary sign renewals that had been previously approved by the TPZ, they are all for three months. Karma’s Kloset at 3153 Berlin Turnpike, and Connecticut Beverage Mart at 3127 Berlin Turnpike and Stew Leonard’s banner that they put up annually, 3475 Berlin Turnpike. They are all the same signs, the same location, and were administratively approved, and I do have two new sign application, one is (inaudible) at 2391 Berlin Turnpike and the other is a banner for Artichoke Pizza.

Commissioner Fox: Andrew, that is like a two foot by eight foot banner. That is a temporary sign?

Andrew Armstrong: Yes, it’s, banners are calculated off of the linear front of the building, as opposed to the A-frame signs. They have a little bit more square footage as opposed to the linear sign.

Chairman Aieta: When a new business opens Mike, we give them a little bit more latitude.

Commissioner Claffey: I have a question on Karma’s Kloset. Does that coincide with the McBride complaint on your page 3 of 9? It doesn’t state who the tenant is that violated the action.

Andrew Armstrong: Yes, that is Karma’s Kloset.

Commissioner Claffey: On her application was there a violation in the past? I remember years ago there was, that property was why we started looking at changing the sign ordinance.
Andrew Armstrong: I believe that they had one about a year ago. Since I have been here there wasn’t…..

Commissioner Claffey: So there were two violations prior to her coming here with this application.

Andrew Armstrong: In the prior violation about a year ago, she then applied for a temporary sign permit.

Craig Minor: I believe she was the first one to get a temporary sign under the new regs.

Commissioner Claffey: So how did this come in, just a lapse after three months?

Andrew Armstrong: I saw it on the turnpike and spoke with the manager and just told her that she needed to apply for a new sign. I saw it and spoke to her.

Commissioner Claffey: I’m not questioning how it came about, I’m questing that we have had multiple violations at this address for this applicant, and we keep approving a temporary sign.

Commissioner Fox: Were the zoning violations before the new regulations?

Andrew Armstrong: I only know about the two, one about a year ago, and very recently.

Commissioner Claffey: So they had a violation of the temporary sign?

Andrew Armstrong: Yes, but they applied both times for a temporary sign permit, but yes.

Commissioner Claffey: Okay, you have Starbucks listed, on Cedar Street, is that the one here, or is the address for the one on Fenn Road Cedar Street?

Craig Minor: The Fenn Road is 712 Cedar Street.

Commissioner Claffey: Okay. All right. Then you have on page 7 of 9, under Francis, excuse me, 174 Francis Avenue, the next one down, is there an address for that one?

Andrew Armstrong: It shows as a separate entry, but our computer system is just adding to 174 Francis Avenue.

Commissioner Claffey: So there is not a resident at 174 Francis Avenue, that’s the old Cashway Lumber.

Andrew Armstrong: Right and what you are reading there is the complaint registered at the TPZ meeting.

Commissioner Claffey: Okay. The other question I have is I see a lot of temporary signs at the same complex, and they need to be so many feet apart, are we meeting that?

Andrew Armstrong: I know that there are a couple on Fenn Road but they all exceed twenty-five feet.

Commissioner Claffey: And then the new one at Fenn Road?
Andrew Armstrong: Yes.

Commissioner Claffey: We have 44 Fenn Road, 36 Fenn Road, these are all of the same location, just different tenants, correct?

Andrew Armstrong: Yes and I did check to make sure they had the twenty-five feet.

Chairman Aieta: Anything else? Any other questions for the Zoning Enforcement Officer?

Commissioner Sobieski: We need to give approval for the two temporary signs.

Commissioner Woods moved to approve the temporary signs for Weight Watchers and the Artichoke Banner.

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

Commissioner Claffey: Do we need to take any action on the other temporary signs?

Craig Minor: The renewals, no, the renewals are administratively......

Commissioner Claffey: Even though the renewals have violations?

Chairman Aieta: Unless you want to make a motion to deny it? I think some of the violations were before she had a permit.

Commissioner Claffey: Okay.

VI. REMARKS BY COMMISSIONERS

None.

VII. PUBLIC HEARING:

A. Petition 11-19: Special Permit (Section 3.15.3: Restaurant Outside Seating at 3260 Berlin Turnpike, (Plaza Azteca) John Kennelly, Applicant; Kleban Newington LLC, Owner; Manuel Rubio, 3260 Berlin Turnpike, Newington CT Contact. Continued from March 27, 2019.

Chairman Aieta: Is the applicant here?

Craig Minor: Before we start, can I just mention to the Commissioners, in that folder when you sat down tonight, is the new site plan submitted by the applicant today, which shows a 48 foot setback from the curb, and I also included a copy of last year's permit with the conditions for your memory, and a draft motion to approve with space for a lot of conditions.

Chairman Aieta: At the last meeting Commissioner Sobieski asked that a representative from the Chief of Police and the Fire Marshal's office be present. I see that the Chief is here and Fire Marshal Schroeder is here. If you would like to come and sit at the table, we'll get you in and out of here as quickly as possible.

Attorney Kennelly: Mr. Chairman, let them speak first, so they can speed up their time, I would be more than willing to defer at this time from making any remarks.
Attorney Kennelly: Just for the record, I'm providing the Chief and Fire Marshal with copies of the new diagram.

Chairman Aieta: Commissioner Sobieski, you are the one who initiated the request for the Chief and the Fire Marshal to come in. Do you have questions at this time?

Commissioner Sobieski: Yes, I, the reason that I wanted the Fire Marshal here to start with was I was a little concerned with the safety of the people inside the building. Looking at this plan that has been revised and that you have in front of you, what happened last time was that they had a gate in front here which Attorney Kennelly has removed, but my concern is emergency exiting. Should there be some type of gate north and south if something happens outside.

Fire Marshal Schroeder: I can't see where you are pointing.

Commissioner Sobieski: I'm sorry, looking north and south here, should there be an emergency exit here and here?

Fire Marshal Schroeder: Well, the generator isn't located in a good area, and that entrance and exit from the bar, it's probably not a good idea to direct (inaudible) to that.

Commissioner Sobieski: I'm just saying emergency exits.

Fire Marshal Schroeder: They have a well defined main entrance and at the opposite end I know there is a separate entrance. I haven't done the calculations for the occupant load, so there may be a requirement for a third entrance that could be for emergencies. I don't think the generator location is the best, they could come out to a more central location so that it is separate and remote.

Commissioner Sobieski: And for Chief Clark, my questions were last year there were people crossing from Target, and I asked Attorney Kennelly about the possibility of putting an extra police officer up there to stop people from crossing the turnpike. There is a pedestrian button there, but there is not enough time to get all the way across without getting whacked. Also, the same thing at Richard Street and the Berlin Turnpike. I realize that, I asked about this because I'm concerned. I just want to make sure that nobody gets killed out there because DOT has installed signs prohibiting crossing the Berlin Turnpike. Even though, as Chairman Aieta has said, there is a pedestrian crosswalk, but there is not flashing walk, nor is there a defined crosswalk on that road. That was my concern.

Chief Clark: It is a legitimate concern for us, and last year there were issues with pedestrians crossing the turnpike to the restaurant. In fact, the information that we had was that the security guards were assisting some of the patrons coming across, and I know at one of the previous meetings that I was watching it came up about having a police officer stationed over at Target to prevent people from crossing the highway. That is going to prove very difficult. There are a number of parking lots along the west side of the highway, it's not just Target, it's other parking lots where they may be parking and trying to get across. To have an officer run up and down the curb line to try to prevent people from crossing the turnpike would be very difficult. I'm not an attorney, so I'm not sure if there is going to be, if somebody got hit, and we didn't prevent that from happening, is the Town going to be held liable because we weren't able to patrol the turnpike.

If you hire security guards, you hope they are professional and they work with the police department, but I can tell you the last two years, they haven't. There was a case where they
were actually charging people an extra $5.00 to get into the venue. They assisted people getting across the turnpike. There is always going to be a level of impairment and if they try to cross the turnpike, the amount of traffic is going to be happening. I'm not here to speak against or in favor of the applicant, I'm just here to try to give you some of the concerns that we dealt with in the last couple of years. There were some trespass codes from I-Hop, there were twelve to fifteen cars that were parked there that the business wanted towed from their parking lot, so that was an issue. Other issues in the past from Lowe's, some of the patrons actually going into some of the sheds that were on the boundary of the property at Lowe's, so I, these are the concerns that we have.

Attorney Kennelly is correct in saying there were no disturbances at the venue last year, and that was largely due to the amount of police officers that we had there. They were there to keep the peace and to quell any disturbances that may have happened. They did that, and there weren't any problems last year. The previous year I believe there was one and that was a result of a trespassing by one of the patrons who refused to leave. As far as arrests or disturbances there were very few, but the biggest concern that we have is the pedestrians trying to cross the Berlin Turnpike.

Commissioner Sobieski: Chief, let me ask you a question, what would be your opinion if we were to ask to obtain from Attorney Kennelly an insurance naming the Town as additional insured. This would cause the town to be held harmless if someone gets hurt.

Chief Clark: Above my pay grade. I'm not a litigator, I'm not an attorney.....

Commissioner Sobieski: I understand that, but.....

Chief Clark: The concern I have is in creating access there, we have an officer that is posted across the street and their job is to prevent people from crossing the turnpike, which is going to prove to be very difficult and if somebody gets through and gets hit, my concern is that the Town's interest, and the Town being held liable if they decided to file a lawsuit. That's my only concern. I think it is something that needs to be considered by the Town Attorney.

Commissioner Sobieski: Thank you.

Commissioner Claffey: I have a question for the Fire Marshal. Have we done an occupant load on the exterior?

Fire Marshal Schroeder: Not yet. It will be based on the square footage of the open area.

Commissioner Woods: Chief Schroeder, is that done after the fence is up? Is that how you do it?

Fire Marshal Schroeder: Well, we would have to have the measurements so......

Commissioner Woods: I didn't know if you had to wait until the day of the event once the fence was up. You have a scale drawing, you can do it from that?

Fire Marshal Schroeder: We can mark it out and do it that way, but it's always best to do it when the fence is up because we have to do an inspection of that.

Commissioner Woods: And then you also have people on the property, don't you?
Chief Schroeder: No, the fire department has done this. Last year I was out of town so the Fire Marshal, Dave Woods, was on site throughout most of the event. We have had complaints the last five years about the restaurant. If approved this year that may be a requirement because there have been two ambulance assistance, fire lane violations, open flame violations under tents, overcrowding conditions. The previous year they were allowed to remove the furniture from the restaurant, benches, tables, which allowed them to (inaudible) with the Fire Marshal. We didn’t allow that last year because it got out of control and it was something that we were not going to approve again. Every year there is a different safety problem. Every year there are promises made, and every year those promises have been broken. I think this is a dangerous game that we are playing. Someone is going to get hurt because we can’t control this event. If it is approved this year by the Commission there will be someone there from the office.

Chairman Aieta: Any further questions from the Commissioners?

Chief Clark: My only request is if you do grant this, that they pay up front. Last year it was the eleventh hour so I would request that if this is granted that they pay up front for the officers and supervisor.

Chairman Aieta: Do you have an idea of how many officers would be required?

Chief Clark: Last year, at any given time there were four to five officers and a supervisor, so for the entire time, there would probably be about twelve officers, that’s just off the top of my head. It’s pretty much an all day event.

Chairman Aieta: Does that tax the other areas of town?

Chief Clark: No, these officers are on private duty, so we have a minimum staffing standard on patrol, and these officers are extra officers that are hired for private duty for the event.

Commissioner Fox: I still have the same concerns that Commissioner Sobieski and the Chief as far as crossing back and forth. I don’t know how many people know that there is a back entrance to Target, so they might come in there, and whether they go in the back way or from the turnpike, I don’t see how a police officer could stop them from going there, and on the way out, if they do cross in spite of what the police officer tells them, so they go by, and then have to come back.

Chief Clark: It has proved to be very difficult, when you look at the area, the access to different parking lots, it’s going to be very difficult. My concern is that people are going to slip through, try to get across the highway and somebody is going to get hit. That is my biggest concern. There is a saying from a class that I went to, if you can predict it, it is going to happen so (inaudible).

Chairman Aieta: Any other Commissioner comments or questions? I want to thank you very much for taking the time to come here. Thank you.

Attorney Kennelly: Mr. Chairman, just a point of order. I’m going to be responding to a couple of the Chief’s points if they would like to stick around. I will cover what the Commissioners said again, and respond to the Chief.

Regarding the professionalism of the security individuals that we used in the past, and when I looked at the memo, which was an attachment regarding my employees taking bribes to let people in. Had I not fired them two months before, I would have fired them that night, and
actually we hired Arrow Security which is a division of Aeron, which I spoke to John Reid who is the vice-president and they specialize in special events. The idea that I am going to have a bunch of, and I think I said this before, last year we had guys who might have worked in a gym, some guys who worked construction sites, but we changed this year for the public safety and security.

There was, obviously all of us are concerned about the crossing of the street, and any issues that might be posed there. Obviously to some degree of course the most significant thing, and we discussed this last year, the most significant difference of course is that there is a cross light. The city paid for the installation of a traffic controlled device. In fact, I went out there today and tested it a few times, timed the lights, once you hit the button, the red light goes on, you hear the little chirp, it pretty instantaneously, within a couple of seconds, traffic stops and there is a 45 second wait on the northbound, and the southbound had a longer wait because of the traffic, including the turn into the parking lot. This is something that we discussed last year and I will tell you, I really, really wish that had been there last year because there obviously would have been a much different situation. I timed it three times and it is a 45 second delay at its shorter time. I'm sure Craig would know better and I'm sure you guys had a lot of hearings on this when Chick-fil-A went in which was the reason for the installation of this technology, and why you felt you needed it there.

Chairman Aieta: Let me just correct you and get the record straight. It was not the Commission but the Department of Transportation. They are the ones that requested that Chick-fil-A put in the cross walk.

Attorney Kennelly: Thank you Mr. Chairman for the correction. It is there, so obviously, no matter what, it's a lot safer than last year. There is a means to cross, I used it myself a couple of times today. That is not to say that we don't want to have it as safe as possible, but we will add the Town of Newington as an additional insurer for that day, for that event. We will have a 1-3-5 policy for that site and would be more than happy to add the Town if that is something that the Commission thinks we should do.

There had been some discussion, and there had been some issues, and this is a party, a big cultural event, it is big business for a corporate citizen here in town, but in two years now, except for the time that we called to get someone off of our property, last year we didn't have anything, nothing. The really big issue, and IHOP has already written a letter to you, Max has already written a letter in support of us being here and in support of our application.

I do want to address Fire Marshal Schroeder's issues. I believe there have been three major changes to address his issues. Last year I offered to pay for an off duty fire marshal to be there, made the offer last year, made the offer again. Three things have changed to affect the capacity and not have overcrowding. The complete separation of the ingress and egress of the outside and inside area, they are completely different, totally separate and a totally different staff.

The second being eliminating the fact that if you wore a hat you got in, and third, the Commission has stipulated that I have to be there the whole time. Those are the things that have changed. According to Fire Marshal Schroeder's memo, I was called about ten, eleven, twelve o'clock at night, I am in bed before that every day, so I wasn't available. If there was a situation they couldn't reach me. Your deputy when he tried to reach me, I was sleeping, and that will be addressed. Thank you very much for coming in, I don't want to bother you any more. I apologize again.
Chairman Aieta: Thank you, we appreciate you coming. I hope the Commissioners got some good information from the Chief and the Fire Marshal to help you make a decision on this.

Attorney Kennelly: Mr. Chairman, I can now address the other concerns of the Commissioners themselves. Actually I’m going to discuss the idea of pre-paid. Last year we pre-paid the police their full request for money for the estimated staffing levels. There was a statement made that we came last minute. I personally dropped it off right across from where we are sitting right now the Friday after the approval was given. I needed a day to get the check generated from my client and I walked in and hand delivered it myself. It was, as you know, it was only about a week or so before the event, your meeting was the last of the month, and Cinco de Mayo is the first week, so it may have felt a little pushed, but I had it there within 48 hours of the approval of this Commission.

Also, as Fire Marshal Schroeder knows, I offered last year to pay for the fire marshal that was there.

I don’t know if I have answered everything that has been raised so far and if I haven’t, please remind me, I’ll just look at my notes.

Commissioner Claffey: How are you dividing the building so that people from outside don’t go in from the patio seating area that faces the Berlin Turnpike, etc.?

Attorney Kennelly: I stated earlier that the way to stop overcrowding in the interior is to have ingress and egress from the restaurant be totally independent from the outside. Your question, how do you make sure people don’t get......

Commissioner Claffey: There are multiple doors around the front and side of the building, facing the Berlin Turnpike and then south, I think there is an exit south too, you know, kitchen staff, delivery staff, you know, you get a couple hundred people it becomes, oh, just keep that door open and prop it, and now you are going to get that ingress and egress of outdoor folks that you are calculating one way, and indoor folks who are now going out. Are you going to have a plan to not mesh them? I don’t understand how you would, but please advise.

Attorney Kennelly: Sure. The problem we had in years past, we have never had an issue with this exit. We maintain it as an exit only. That’s really because we didn’t want in terms of the crowd over here that we would have to get them all the way over there to get out. This is an exit only, there will be security there all day like last year. The police were actually there, so this is an exit only. The question I have, I assume, is that there are doors to the patio, a service door for customers who are, there is a gate, there is a small fence that is required by law for the egress of this, a gate here, and we have had security posted and usually one of the interior police officers standing about here. There is no ingress, there is about a two and a half foot brick wall with wrought iron ornamental design that comes up to about four and a half feet. There is a push bar exit as required by law, as a second egress. Posted there will be one of the officers also.

Commissioner Claffey: So you can only be in the building or out of the building, those are the only two options.

Attorney Kennelly: If you want to go from outside the building, you have to go all the way this way, come back, get back into the line and deal with a whole different people doing clickers here. What we had last year, that I had it all concentrated here, and you had bleed over.
Commissioner Claffey: That's what I'm trying to understand.

Attorney Kennelly: There was a design failure. Entrance into the restaurant is only allowed through here, totally separate from anything, with the fencing it is absolutely independent. Only one entrance, that is an emergency push bar, that is an exit only, but entrance is only through here. And even to get here you have to go through there, I know that's not going to come out well on the record, but this design was to make them truly independent, and that was the thought, making sure that you couldn't have what I read in the memo from Chief Clark which was somebody taking five bucks if you were wearing a hat. Using those little hand things, this is totally different from these two.

Commissioner Claffey: Is there going to be outdoor entertainment? I'm trying to figure out why you would need a generator.

Attorney Kennelly: Oh, because it does go until after sundown, so there are lights put out here. The generator is one of those things on, it's hooked on a truck. I think there was a mention about a pad, it's not permanent.

Commissioner Claffey: The generator is just for the outdoor lighting. You don't have any bands or.....

Attorney Kennelly: No bands, I believe there is some outdoor speakers. The speakers are wall mounted here, they are about that big. There will be some ambient music as there has been every year. We have never had a noise complaint.

Chairman Aieta: Any other questions for the Attorney?

Commissioner Sobieski: Attorney Kennelly, just to make sure I understand, you are going to pay for an independent insurance for the, naming the Town of Newington as an additional insurer, which means will hold the Town of Newington harmless in case someone gets hurt, am I correct?

Attorney Kennelly: I have been an attorney for twenty-two years, much of it around either restaurants and also insurance, so it isn't, the insurance policy doesn't say, what it says is, we will pay for you getting sued, the cost of indemnification. What it does, if someone did sue the Town of Newington it says, well, your insurance doesn't pay for it. This insurance pays for it, the defense, that is, the cost of lawyers and things like that, and indemnification, any settlement or jury reward that is found against you. So as an additional insurer, it doesn't indemnify you, so much as it provides, it pays for the lawyer, it pays for the settlement, it pays for the jury reward if that. If that is something that you want to do, I would say it is just going to be for May 5th, it would be for a single day, and it would be for the limits of what is, the same limits as the premises which is I believe 1, 3, and 5, one million, three million, five million.

Commissioner Sobieski: You as an attorney know as well as I do that you go after whoever had the deeper pockets, and that would be the Town of Newington, that's my concern. I want to make sure the Town, let's assume that somebody goes across that highway and gets hit. Crosswalk, no crosswalk, I want to make sure the Town is protected as much as possible. That's all I'm concerned about.

Attorney Kennelly: Through you Mr. Chairman, to you Commissioner Sobieski, I have no problem with that. The first thing I said was, we'll make you an additional insurer, just for the
day, and that is fine by me. What I just said was 1,3, and 5, and that is one million, three million and five million.

Commissioner Claffey: Attorney, you had stated a name, Max, who is this Max?

Attorney Kennelly: He is the franchise owner of IHOP. They were the ones that were most significantly impacted by our event, and they had twelve to fifteen of trespass tows. He is in support and has been on the record, and through you Mr. Chairman, Commissioner Claffey you were not here at the beginning of this hearing.

Commissioner Claffey: But I was here last year, and I'm going to ask the same question, because we do have new tenants in there, the same question, of the overflow parking, and the other restaurants that are there have a right to their parking and I think, and I go back to last year's notes, that I asked whoever owns the property to clarify that all of the tenants that rent space on that property are okay with this, with the overflow parking, because IHOP is the closest one, then Chick-fil-A, but they are not there on Sunday, and I think this year it is on a Sunday....

Attorney Kennelly: It is a Sunday, and that is Bobby Stewart, owner and operator of Chick-fil-A, who I'm sure you are familiar with.

Commissioner Claffey: No I'm not, but I just, I'm more concerned now with the parking, with the cleanup, and all of that stuff. Like how do we, the event is done and Monday morning comes, these businesses come in, and garbage, trash, all of that, is that something that your client is willing to....

Attorney Kennelly: Through you Mr. Chairman, to you Commissioner, I know that you weren't here last hearing. We had put up, last year, pre-event a $3,000 surety, gave a $3,000 check, and if you look at your packet you will see from the Department of Public Works that no services were used to clean up anything from our event because we were cleaning up during and immediately after and therefore that $3,000 was returned. I would agree to again giving surety but that was the first time that was done and there was nothing, no problem with any of that, but if that was something that the Commission felt was necessary to do again, I'm comfortable with doing it, but we were pretty good about that. We got a clean bill of health.

Commissioner Claffey: I just want to make sure that just because you were good last year, we want to hold you to the same standard this year. Your client, not you, your client.

Craig Minor: Just one thing, according to my notes, it was a $5,000 bond.

Attorney Kennelly: Yes, it was returned.

Commissioner Woods: I also wasn't here at the last meeting. Did you secure permission to park at Chick-fil-A?

Attorney Kennelly: No, and we don't plan to. They, we talked to them, and that again is Bobby Stewart, the owner and operator, we didn't ask to use their parking, we, they don't allow parking on Sunday on their property. I think someone mentioned and I confirmed it, that they put cones up so they don't allow public parking when they are not using it, they are a new neighbor, we weren't going to try to rent it on a Sunday from them. We just asked if they had any problems with this, do you know about it, there is a hearing, Mr. Stewart just said, I don't have a problem with it, we're closed, you are not going to have any effect on us. We didn't get into trying to rent his parking lot.
Commissioner Woods: Can you walk me through, where are your patrons going to park?

Attorney Kennelly: They will park on our premises. You will see the same spaces and the same area that they used last year pretty successfully except for those twelve spots that were taken as trespassers, there was no compliant from Richard Stopler who was the manager the last time that we did this, and came out in support of this event, and has no problems, there was no problem with him on this, they are going to use the parking spots that we have. We only had a twelve to fifteen, police estimation, parking spot problem.

Commissioner Woods: Mr. Planner, did we get any complaints last year from abutting property owners?

Craig Minor: Not that I recall when I prepared my notes for this meeting a month ago I went back to the minutes and everything and I don’t remember seeing anything about a complaint from the merchants. IHOP was about the trespass.

Commissioner Woods: Does anyone remember, was Ruby Tuesday open at that time?

Commissioner: No.

Commissioner Woods: So that probably helped a lot. Thank you.

Chairman Aieta: Any other questions from the Commissioners? Okay, we will open it up to the public. Anyone wishing to speak in favor of this application? Anyone from the public wishing to speak in opposition to this application. Please come forward, state your name and address for the record.

Diana Serra, 237 Reservoir Road: Good evening. Last year when they came forward with this there were a lot of questions and a lot of concerns that you guys had and you asked them to follow through on stuff, so that evening I decided to take a ride myself to go to see if things were in place. We stopped and talked to a few people over there and asked if Mr. Kennelly was there because you had tasked him to stay on the premises that day, and he had left. That was about six o’clock that evening.

I also stopped over at IHOP and went inside and talked to the Assistant Manager because the manager was not working that day, and she said that people were parking in their spots and that the individuals were coming into the restaurant, getting water, using the bathroom and then going across and going over to Plaza Azteca. When their patrons were coming in, they had no place to park. I went outside and walked over to one of the security guards and asked him, these spaces are supposed to be for the IHOP individuals and could you please ask these people to move their vehicles, and they were just coming in, still parking there. He looked me right in the eye and said, I’m not saying anything to any body, they are going into Azteca. So if we have security in place that is supposed to be doing something, but they are not doing it, why just hiring a different security company isn’t going to change.

The Assistant Manager at IHOP that night, it was almost empty, and on a Saturday night that place is not empty. So I’m very concerned for the businesses around there and the whole back parking lot was filled, all the way up and into Lowe’s area. So there was not any parking over there for people, people were across the street. I literally witnessed people running and dodging cars on the Berlin Turnpike coming across. It’s very concerning if somebody gets hit in this town just crossing this street. So, it’s your decision how you want to play this, but I just thought I should put my two cents in. Thank you.
Chairman Aieta: Anyone else wishing to speak against this petition? Anyone else? Seeing none, you have an opportunity to rebut.

Attorney Kennelly: I just would like a couple of things referred to that are already in the record. We reviewed the stipulations for the issuance of the permit last year. There was no requirement that I be on the premises the entire time. I was on the premises, was there when the Health Department was there, was there with the Police Department, was there with one of the Fire Marshals, but I did go home. Had you made the same stipulation that has been suggested this year, I would have been, but let’s just be clear that it was not a stipulation and I would ask the Chair and the Town Planner that it was not a stipulation that I be there.

Secondly, there is some concern and we have all talked about, and we have all talked about the twelve to fifteen trespass tows that had to occur. I think we all thought about IHOP’s parking and the impact it will have speaks louder than the letter I got from the owner of IHOP’s, which says I am in support of your application. I understand that there had to be some tows there, but really there is just one person who gets the final say on this whether IHOP is going to support us, and that is IHOP and IHOP has spoken, and they support us.

I think we have explored the idea of people crossing the street, it is inherently safer now since DOT forced the installation of that control device, but we are willing to do whatever additional, such as putting a police officer there. We would be more than happy to pay for that. That’s it. I’ve talked to you guys a lot. Thank you Chairman, thank you Commissioners.

Chairman Aieta: Thank you. I need some action from the Commissioners as to whether to keep this open.

Commissioner Claffey: The question that I have is leaving it open because we don’t have an occupant load calculation from our Fire Marshal or anything in writing as to how many people can be outside, how many people can be inside, I think in years past Mr. Planner, there was some of that stipulated before we made a vote on a year to year basis, if I do recall.

Craig Minor: Reading last year’s approval, condition number one was; the indoor occupancy shall be limited to the number normally authorized by the Fire Marshal, which TPZ believes to be 164, and then, number two, the outdoor occupancy shall be limited to 300 persons.

Commissioner Claffey: And I only ask that question because the person who makes that determination was here, has left, hasn’t even been given the information to make that determination. I don’t know how we can make a determination on a stipulation if we don’t calculate it by law.

Craig Minor: You could certainly, as a condition of approval, indicate that both indoor and outdoor occupancy shall limited to the number approved by the Fire Marshal, and that that decision be made some number of days before the event.

Commissioner Claffey: Just asking the question.

Commissioner Fox: I also would like to keep it open for the same reason as Commissioner Claffey, plus it came into my head while Attorney Kennelly was just answering the public, Council person Serra, I’m not too sure what it means by Max, I support.

Craig Minor: It was in the letter, rather an incoherent letter, but I think.....
Commissioner Fox: When he says support him, does he mean, one, you are able to park cars, your client’s will be able to park cars on my property, or that if we have to tow, we have to tow, so I’m not too sure. I’d like to keep it open.

Chairman Aieta: I just want to remind the Commission that this event is on May 5th. Our next meeting is on April 24th. We would have to close the meeting the next time, and take action that night. One of the problems that we had last year was time, we closed the hearing and he had to run over with the check to give to the Police Department. The Police Department was not happy that it wasn’t there sooner. Just keep that in mind, if you want to keep it open.

Commissioner Camillo moved to close the hearing and move it to Old Business for action tonight. The motion was seconded by Commissioner Sobieski.

Chairman Aieta: Is there discussion on the motion?

Commissioner Claffey: My discussion would be just on the stipulation that would have to be compiled for the occupancy load for the interior and outside like you just said. That would be the only thing.

Commissioner Woods: I think no matter what we came up with tonight, the Fire Marshal could trump it anyway. If we came up with an occupancy that was too high, and he comes in with 300, it’s going to be 300. So, the wording that we could do, if we approve this is based on the Fire Marshal’s determining factors for the size.

Commissioner Sobieski: I think whatever the Fire Marshal comes up with, because he is seeing the seating inside and the occupancy outside, so it would be his call, and it would be put in as a stipulation, whatever the Fire Marshal says. Secondly, I think that we should, if the Fire Marshal agrees to have a full time Fire Marshal there to protect the premises.

Chairman Aieta: I’m sure that the Planner has been taking notes while we are having a discussion.

Commissioner Woods: That would be done under Old Business, right?

Craig Minor: Yes, but it’s good to discuss what might be the conditions now while the petition is still open, so if you say something that is really onerous to the applicant, it can be discussed.

Commissioner Sobieski: Also, taking Chief Clark’s comments, I think this should be paid well in advance, whatever the Chief decides the number of officers should be, apparently there are two shifts in there, six officers plus the supervisor or five officers plus the supervisor, so I think they need to be paid well in advance, not run over there, because of the timing and stuff like that, vacations, and stuff, so I think the sooner Attorney Kennelly, if this is passed, the sooner you get the money in there, the better off we are going to be, and will be able to schedule properly. Thank you.

Commissioner Fox: I would vote to close the hearing, but I think I would have to put it out to the next meeting for Old Business. I know about the timing, but do you have all of the conditions that you want on there? That’s what I’m worried about.

Craig Minor: We can recap the conditions that we have been kicking around, so.....
Commissioner Claffey: These are the ones I've been keeping track of, approved occupancy levels calculated by the Fire Marshal, number two, the attendance of the Fire Marshal at the property during the event; and then the third is police staff that are directed by Chief Clark with proper pavement made to Newington Police Department for their services.

Commissioner Sobieski: I'd like to add that Attorney Kennelly be present.

Attorney Kennelly: Aren't you guys forgetting the insurance, the additional insurance?

Commissioner Fox: No, we won't forget.

Attorney Kennelly: Okay, I didn't hear it.

Commissioner Sobieski: The additional insurance as Attorney Kennelly just mentioned, also I'd like to make sure that Attorney Kennelly is on the premises from the start to the finish.

Craig Minor: Right, and then the last one was the $5,000 cash bond. Those are all of the ones that I have also.

Attorney Kennelly: It starts at noon, and the outdoor ends at 10:00 and the indoor ends at 1:00 a.m., can I get there at like three or four? Nothing happens in the early afternoon.

Commissioner Fox: The one thing that I would like to add is that we want the representative from the Fire Marshal's office there, I would like to see them there maybe an hour before the event to make sure everything is set up properly, and then stay for a while afterwards.

Chairman Aieta: Any other questions? Any other additions?

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

B. Petition 03-19: Zoning Text Amendment (Section 3.11, Section 3.17, Section 6.11: Motor Vehicle Service Uses. Town Plan and Zoning Commission, Applicant, Continued from March 27, 2019.

Chairman Aieta: There are two issues that we have to clarify. One is the distance requirement from residential zone, I believe it is 100 feet, and the second is the garage doors facing the street, also, the new/used car dealerships. Those are the items that we want to discuss. I'll open it up to the Commissioners on those three items.

Commissioner Fox: As far as the definition states that new car dealerships can sell used cars, and I asked this at the last meeting, can we not allow a straight used car dealership?

Craig Minor: Yes, yes you can. It's a complicated answer, so bear with me. The definition of a new car dealer is a dealer who has a relationship with a manufacturer, Toyota, Chrysler, GM, whatever, or an importer. He has a relationship with the car manufacturer. He needs to have that relationship to be a new car dealer. If he has that relationship, if he is the local Toyota dealer he can also sell used cars, but he has to be a bona fide new car dealer before he can, to be allowed to also sell used cars. So, yes, if you allow a new car dealer, expect that there will be some used cars being sold, but he has to be a bona fide new car dealer first before he can also sell used cars. If you read the definition of a new car dealer, that's how a new car dealer is defined.
Commissioner Fox: So by definition a new car dealer in a relationship, and of course the used cars will generally be trades, we would assume, but if he wanted to go to a wholesaler and pick up a couple of used cars to sell, he would still be able to do that?

Craig Minor: Yes, if you allow new car dealers.

Commissioner Fox: That answers my question.

Commissioner Sobieski: One thing, let's assume that I had a dealership with GM, I lose the dealership with GM, but I still have an auto business, what would be the outcome?

Craig Minor: It sounds like you would, if you lose your dealership, if you lose your link to GM then I would assume, I'm not a lawyer, but I would assume, that your license to be a new car dealer is void because you are no longer a new car dealer, and everything that goes with it.

Commissioner Sobieski: That would also void the used car portion.

Craig Minor: If you are no longer a new car dealer then you would have to try to get a used car dealership license from the State.

Commissioner Woods: If we didn't allow used car dealers, that would eliminate someone like Car Max, correct?

Craig Minor: Yes.

Commissioner Woods: So you can't have one without the other. Car Max sells used cars pretty much like a new car lot.

Commissioner Claffey: They also sell new cars.

Commissioner Woods: Oh, do they?

Commissioner Claffey: Yes.

Craig Minor: It would depend on the type of license that they have. Again, if you look at the definition of a new car dealer, he has to have a relationship with a manufacturer or an importer. Car Max could be a new car dealer in Connecticut.

Commissioner Claffey: They are. They are a new car dealer. They have agreements, maybe not currently in the State of Connecticut, but they have them across the country.

Craig Minor: In other states?

Commissioner Claffey: In other states.

Craig Minor: But not in Connecticut.

Commissioner Claffey: Just because it's not here, if you put something in like that, you would be precluding them from being able to possibly not.....

Commissioner Woods: The new and used car dealerships certainly aren't banging on your door asking you if they can come to Newington are they?
Craig Minor: They are not banging on my door, no, they may have talked to Andy Brecher, but no.

Commissioner Woods: Is it because of our zoning regulations, or is it because the market just isn’t here as far as they are concerned.

Craig Minor: I don’t know.

Commissioner Woods: No one has knocked on your door, they haven’t knocked on your door for quite a while.

Craig Minor: Correct.

Commissioner Woods: So are we over thinking this?

Craig Minor: Possibly.

Commissioner Woods: The goal of this is to try to get something that is cohesive, that will work, and actually I believe help some of the businesses that are now operating in this town as non-conforming to get them back to conforming. I thought that was the goal that we were trying to achieve, so whatever we can do to further that, I’m in support of.

Chairman Aieta: The new car dealership part of the regulations (inaudible). How did they treat it in the past before 2007?

Craig Minor: I’d have to do some research to answer that question. To answer your question on what does the draft currently say, the draft currently says that the Commission may grant a special permit for the service, sale, repair, rental or storage of motor vehicles, and the title has always been Service, Sale, Repair, Rental or Storage of Motor Vehicles. We just haven’t been talking about the sale aspect until the last meeting.

Commissioner Woods: So they would be allowed special permit.

Craig Minor: Correct.

Commissioner Woods: I just have one other question too, I wasn’t here and I did read through the minutes, why do we need another public hearing if we go to the 100 feet?

Craig Minor: Okay, the issue has been raised that, if the Commission decides to adopt a regulation different from what was advertised, let’s put it that way, then people who perhaps chose not to come to the hearing because they read what was published and they felt, it doesn’t bother me, I have no problem with that, I’ll stay home. But if the Commission adopted something significantly, substantially different, there is a question of whether we truly told the public what we were going to be discussing and then a bait and switch sort of thing. So on the Town Attorney’s recommendation if it looks like the Commission is going in the direction of adopting a regulation that is less protective of residents, in other words, the fifty foot buffer instead of 100, if that is the direction that the Commission wants to go, the Town Attorney recommends having another public hearing expressly to discuss the fifty foot setback instead of the 100 foot buffer.

Commissioner Woods: I don’t want to beat this to death, but is that because we didn’t discuss going from 100 to 50 during the public hearing portion?
Craig Minor: No, because it wasn't in the draft that was posted with the Town Clerk prior to the meeting and it wasn't in the copy of the draft that was sent to CRCOG prior to the meeting.

Commissioner Woods: See I thought this whole thing was open where there were some suggested changes, I just thought we could do whatever we wanted, but you need to be a little bit more specific, right?

Craig Minor: Right.

Commissioner Woods: I'm not against having the public in, that's not my point, I'm just trying to wrap my arms around this.

Craig Minor: Right, and I, over the years we have quite frequently adopted a regulation that was slightly different than from what was originally advertised. It's a question of how different is what got adopted from what was advertised. It has been suggested that maybe a fifty foot buffer could significantly be different than a hundred foot buffer.

Commissioner Woods: And I think people should have the ability to come out. I was just trying to understand this. Thank you.

Chairman Aieta: I think that, you know my position, my position has been that I think that the 100 foot is not adequate protection for the residents, but I would concede to what the Commission wants. If the majority of the Commission wants to drop it to fifty feet, I think it's unreasonable, it's been a hundred feet, and I think to relax it any more would be a disservice to the residents.

Craig Minor: I think it's the opposite. I think, well, it used to be fifty feet. Then this Commission is thinking of adopting a greater buffer.

Chairman Aieta: I think that is what we asked for.

Craig Minor: Correct.

Commissioner Woods: I don't disagree with you if we were starting the process new. If this was a new community where, say opening a new section of town, and was planned and all of that, now we are trying to develop in little niches and I'm not sure, I'm not saying that we don't protect our residents, that's obviously what we are here for, but I think we can see on these maps that when you start drawing these lines, that can't be met, we had every one of these sections now and then, we have a problem that oh well, we thought this was okay, but it abuts residential.

Chairman Aieta: From what I understand it's not a significant difference between the fifty and the one hundred as far as the (inaudible)

Craig Minor: It's subjective. What one person considers significant, another person may not.

Commissioner Sobieski: As far as I'm concerned, I'd like to see the 100 foot buffer. I want to protect the residents as much as possible. I agree with Chairman Aieta that maybe 100 feet is not enough, but it's better than fifty. It's, when you are in your yard, or your home, you want to have some type of a buffer from the activities that are next to it. I would be in favor of the 100 foot.
Chairman Aieta: Okay. Let's talk about the doors.

Commissioner Woods: Just to be clear. One hundred feet for any automotive use, correct? That's what we are talking about, any automotive use?

Craig Minor: Correct.

Chairman Aieta: You do realize that these are all special permits?

Commissioner Woods: Right, I just wanted a clarification what we were talking about.

Everyone talking at once.

Chairman Aieta: Okay, let's talk about the doors facing the street.

Commissioner Woods: I don't have an issue with the doors facing the street, and I think that we have the capability today as a Commission to put buffering in place, whether it's landscaping, fencing, some sort of buffering, just mounds of earth to try to make the doors go away as much as possible. Again, I think where ever you put the doors, no one is going to like it, so they might be on the turnpike, facing the turnpike, directly and yet the building is just a little square, and you see more of that door as you are coming north and south versus just driving by. Again, I think we can do it other ways. I might be in the minority.

Commissioner Claffey: I have to agree with Commissioner Woods. I don't think the doors are that much of an issue based on how construction and designing and making doors look like the rest of the building, can be done as in some communities, just like you can go and see an old telephone or power building that they have made look like a single family home but inside it is all of the power generating devices. I don't know if Newington has any, I know that some of the surrounding towns do. It's the same concept, we make other buildings in town look like buildings in that same neighborhood, I think with these doors, with technology and construction material that you can make them look like the façade of a building and not look like a door and actually be a door.

Chairman Aieta: The problem I think is more that the people who run these operations when the doors are like facing the Berlin Turnpike, when they are operating, the doors are often open and you can see their whole operation.

Commissioner Claffey: I don't disagree, but.....

Chairman Aieta: That is the logic I believe. I'm not saying whether it is right or wrong.

Commissioner Sobieski: I remember when DOT came in and Joe Klett was the Chairman, they made them put the berm up to hide the doors at the DOT building. I believe part of that was for the aesthetics of the turnpike. Again, as Chairman Aieta alluded to, when they are open, you can see what is going on inside, so, I would not be in favor of putting the doors in the front of the building.

Commissioner Fox: I would rather keep that restriction.

Commissioner Camillo: There are 24 dealerships in Newington, and then there's obviously garages, so what are you going to do for them?
Newington TPZ Commission

April 10, 2019

Page 22

Chairman Aieta: As far as what? We’re talking about the doors.

Commissioner Camillo: I know.

Commissioner Claffey: You take, you know, the body shop there by…..

Commissioner Camillo: Turnpike Motors.

Commissioner Claffey: You know, that property is kind of situated, if they wanted to grow,
would they be able to grow and become more non-conforming if they wanted to add a bay,
it’s kind of hard to have some of these places that want to stay in town and if we institute
changes then they become non-conforming.

Commissioner Woods: If you run your bays north and south on the turnpike, then you see
them first anyhow. You see them all the way down the highway. That is sort of what you are
trying to get away from. Now you are going to see them from a half mile away instead of a
hundred feet as you drive by.

Chairman Aieta: You could make stipulations on approvals on special permits that during
business hours that the doors are kept closed. You could get around it. Just a suggestion,
I’m not suggesting that we change.

Commissioner Woods: I think if the argument that you want is aesthetics, I think you can do
some things to help that, but if the issue is really noise, I think what you are going to see in
the very near future because it has already started, they are moving away from pneumatics,
and going now into all battery powered equipment. So the noise levels are going to start
coming down. I think that is the biggest objection from abutting property owners is the noise
level and that high pitch sound from the air guns. That is almost a thing of the past. They are
all moving to battery operated tools.

Commissioner Fox: Case in point, as Commissioner Woods says, that Firestone, I mean the
people who live there nearby were worried about the noise of the pneumatic tools and I
agree, that is a large part, and then for aesthetics, as Commissioner Claffey said, they can all
be made look like the building.

Chairman Aieta: As a special permit there is a lot of latitude for the Commission as to what
these things are going to look like and what you approve.

Commissioner Camillo: Would you make solid doors if in fact they did face the street?

Commissioner Claffey: I have a question, this is for you to think about, existing garage doors
facing, would they have to come for a special permit if they wanted to add onto their building?

Craig Minor: Yes, they would have to get a special permit to expand the building, and would
not be allowed to put in an additional door if you adopt this provision, but yes, they would
have to come……

Commissioner Claffey: If they are complying now but they, if they are not adding any doors,
if they are just adding to the back of their building, like a 40 x 40 storage facility for parts,
does that mean they have to get a special permit because they are under this cloud of a
special permit.
Commissioner Camillo: The other thing is, most of these businesses would have to be on the turnpike because local garages have gone away, we don’t have the zoning for it, gas stations in neighborhoods have gone away. You have the turnpike and what, an acre, two acres you have to have for a parcel too?

Craig Minor: That has gone away.

Commissioner Camillo: That’s eliminated?

Craig Minor: Yes.

Commissioner Claffey: What about in the like, the North Mountain Road area which is separate from the pike but they have come in here before and most have loading docks and.......

Chairman Aieta: That is an Industrial area.

Craig Minor: And they would be allowed by special permit also.

Commissioner Camillo: Special permit, would that have to go to ZBA?

Craig Minor: No.

Chairman Aieta: Comes here.

Commissioner Camillo: For the dealer’s license?

Craig Minor: Oh, for the dealer’s license, it’s changed a couple of times in the last couple of decades, I think at the moment the legislature has put that onto TPZ.

Commissioner Camillo: There are other towns that are ZBA. West Hartford is still ZBA.

Craig Minor: Whatever the state law requires is what we would do with it. At the moment, it’s the TPZ that has responsibility for location for dealers.

Chairman Aieta: Any other, we’re still in a public hearing, correct?

Craig Minor: Yes.

Commissioner Woods: I believe there are some members in the audience that would like to come up and speak.

Chairman Aieta: Yes, we will have them, but we have to vet this thing. We’ll keep this open, there is no rush to close it. We want to get this right this time. I don’t want to keep revisiting this again. So at this point, if there are no other questions from the Commissioners, I’ll open this to the public. Anyone wishing to speak in favor of this application please come forward state your name and address for the record.

Robert Amenta, 3455Berlin Turnpike, Modern Tire: I’m in favor of obviously addressing the regulations and bringing new ones in that create a level playing field for all auto uses in town. First of all I’d like to thank the Commission for addressing the auto regulations. It’s my hope that we do get these regulations put in place so as was stated we can adequately have a
level playing field for all of the existing, approved auto uses and that they become conforming auto uses.

Along those lines I do have some comments in regards to the proposed regulations and some of the comments that you folks have made just a few minutes ago. I understand your position regarding used car dealers but I believe that you can achieve a professional image by setting guide lines for used car dealers. Commissioner Woods mentioned CarMax. You look at it, it's like a new car dealership. So I think one of the biggest things you can do is, first of all you do say is, Mr. Minor mentioned in the regulations the sale, service and repair of auto's. So sale is in there, so I think that new car dealers and used car dealers should be allowed, but with guidelines. So for example, let's have no popped cars out there with the For Sale signs, no banners waving on the antennas, things like that, so that you get a professional image as long as you have guidelines.

In Section 6.11.2, a couple of meetings ago I had mentioned the repairs that were done outside of the building. In here it still says that all repairs shall be entirely within the building, and at least 30 feet from any street line. Again, I would like to stress to the Commission that O'Reilly's can install batteries, Auto Zone, wiper blades, Advanced Auto Parts, is going to pop a bulb in or something like that, we have unapproved uses that motor vehicle doesn't require to have a license. I have a license in my business, and the other businesses in town have licensees, we should have the ability to go out and pop a battery in a car, put a wiper blade on, something minor, and again, if you can have stipulations and regulations that kind of curtail it so that we are not doing a brake job in the parking lot. You don't want to see that. But if there was something that was service within 30 minutes, or less than an hour, and if someone came by from zoning and they saw us, the same vehicle out there and it was jacked up and the spare tire was still off, and it was 30 minutes, it was like the sign regulation, give us a citation or something. I just think that is not only fair, it's smart to have a regulated entity do the work on vehicles that people are driving and they are doing it in shops that aren't regulated, it just doesn't make sense.

Chairman Aieta: Bob, it's happening now, and it's not being enforced where the Zoning Enforcement Officer is coming out and saying, don't put the wiper blade on. We don't want to over crowd the regulations with so much stuff that, the simpler the better for us. If you try to address every kind of situation that would come up the regulations would be as thick as the Bible, thicker.

Robert Amenta: So then it might be better just to leave it off. It would be better just to leave it out. Not even address it at all, like the car wash.

Craig Minor: That would be like throwing the baby out with the bath water.

Commissioner Claffey: You are putting a stipulation on this style of business, but you are not on the other guy who does half a dozen of the same thing that someone else's company does.

Chairman Aieta: Have you ever been stopped from doing that?

Robert Amenta: No, but I'm going by the regulations. So I go by Modern Tire and I see you putting a wiper blade on there, and I don't like you, so we're going to call up the Town and they are going to come down and they have to enforce the regulations.
Craig Minor: No, they don’t have to. They don’t have to and as the Chairman said, historically we have not been enforcing, or we have not been citing car dealers from replacing the car battery or the wiper blade in the parking lot. We don’t.

Commissioner Claffey: But right here you are going to put a stipulation against his business, that says he can’t do it. He has to take that vehicle, pull it off the road, put it in the garage, do this five minute thing. It will take him longer to make sure that the car doesn’t fall off the jack than this guy who can walk out of Advance Auto with a new battery and the employee can pop it in, put the things on it and off they go.

Craig Minor: What the Commission can do is discuss this suggestion of Mr. Amenta after the hearing is closed.

Commissioner Claffey: We’re not really talking a few things about it?

Craig Minor: We are talking about 6.12.2 which says that all repairs shall be entirely within the building…..

Commissioner Claffey: I know that…..

Craig Minor: That is all that Mr. Amenta is talking about.

Commissioner Claffey: Why do we have to stop and not complete the talk now?

Craig Minor: Because the public hearing is open. That is something that you can do later once the hearing is closed. You don’t have to agree now…..

Commissioner Claffey: I see, I’m sorry.

Craig Minor: You don’t have to agree now.

Robert Amenta: So I’m thinking that maybe there is a way to do it where you have again a stipulation regarding the amount of time that it is out there or whatnot. That makes sense.

Chairman Aieta: When we are discussing the final approvals we will take that under consideration. Make sure that we discuss it.

Craig Minor: Yes. Right.

Robert Amenta: Section 6.11.3, just so that the regulations read properly and each paragraph references the other, it says one hundred feet of any residence, but yet down in 6.11.5, it says residential zone, so I think it probably makes sense to make it say residential zone so that you have continuity there.

Chairman Aieta: Make sure that is the same because it is traditionally to the zone line.

Robert Amenta: Then in 6.11.4, again getting back to new car dealers/used car dealers, it says no display or storage of motor vehicles in the front yard, if you do determine that it is a good idea to have used car dealers/new car dealers, I think that is going to have to be addressed, and again which stipulations that there should be no for sale signs, no flying banners, it’s got to be professional, so that would have to be addressed and I hope that new car dealers and used car dealers would be allowed.
You mentioned 6.11.5 as far as fifty feet versus 100 feet, I have to question the Commissioners. If you lived in proximity of an auto use, would you want fifty feet or one hundred feet away from it? Then, also the drive through speakers I think are 300 feet, so again that seems like that is a little nonsensical.

Then lastly, as far as overhead service doors, I understand where you guys are coming from with that. We have a lot of overhead service doors, and we have had them for years, and when we redid our facility way back in the ‘90’s before the 2007 amendments were pulled, and what I would like to see happen is that, my concerns on my property, I want to improve upon it. But to improve upon it, I’m a non-conforming use right now, so I’m okay with the amount of garage door that we have, and what I would say would probably be a way that we could address all of the non-conforming uses and say, any valid approved non-conforming use in existence, the date that these regulations go in, is valid at this point, but you cannot increase the amount of doors. So if I wanted to square off my building and I have ten bay doors, and I say, I’m going to square off my building and I’m going to put bay doors in the back. Where if I lessen my bay doors, if I say, you know, I have ten now, I want to have eight, but I want eight in back. That, I would want to be able to do. So if I reduce my amount of doors, I’m putting some on the back, but I ought to be able to come in as a validly approved use and know that I am non-conforming and not be subject to say, hey you are not conforming, you can’t do anything.

That’s all I have and I appreciate your time and I appreciate the time that you are taking to try to get these right. I have brought up all these points and the residential zone and one paragraph to the other just because I want it to be black and white, no interpretation or very little interpretation so that we know what is going to work and what is not going to work. Again, thank you.

Chairman Aieta: Thank you. Anyone else wishing to speak in favor of this application? Anyone wishing to speak in opposition to this application? Please come forward, state your name and address for the record.

John Knuff: Good evening Mr. Chairman, I’m an attorney at 147 Broad Street in Milford, CT, you are used to seeing my colleague Amy Suchen, who is on vacation this evening, and we represent 43 (inaudible) Newington. This is one of the times that you don’t know if you are speaking in favor or against, but there are two specific issues that I know Amy has spoken to you in the past, and I just want to remind the Commission.

Regarding the conversation you had tonight, you really had some insightful comments, starting with you Mr. Chairman, about this is a special permit use, and that you have discretion and you have the ability to require applicants to make changes to their plans in a manner to protect neighbors, they have to have an attractive location, and in that regard, we have made the recommendation that you eliminate the distance requirement and to permit overhead doors to face the street. Not only, as I think Attorney Hollister would say, not only face the street but face the residential zone and here are two reasons why. I know that Commissioner Claffey, Commissioner Woods both spoke about the overhead doors and that by technology or by landscaping or by architectural treatments the doors can be treated in such a way that they have the appearance of the building, and they can still be very attractive.

I would say that the same reason, or rationale applies to the distance requirements as well. Certainly our clients operate the Firestone has demonstrated that you can operate a, at least a tire repair facility or tire replacement facility in close proximity to neighbors in a manner that doesn’t bother them. The doors are shut whenever the power tools are running. I don’t want
to get into the specifics of the litigation or the on-going or sort of tedious litigation that we have been involved in, but I think if you go there you will see that there are no noise issues regardless of where you are located because of the manner, the safety protocols and the noise protocols that have been put in place, canceling the litigation. Air conditioned so that the doors can remain closed all through the summer, there is fencing, so I think you may not want to tie your hands both with regards to the doors and with regards to the distance requirements, and treat each application as it comes before you. All lands are unique, each application is unique, you may have a situation where neighbors can be more than adequately protected and there is, the two properties abut each other. You don’t know how large the two parcels are and I think you ought to give yourself the flexibility on both the doors and the distance requirements and deal with it on a case by case basis and have the applicants put in those precautions for those features that make the site attractive and make it such that it doesn’t impair the neighbors ability to enjoy their property. That is all I have.

Chairman Aieta: Thank you very much. Anyone else?

Attorney Hollister: Good evening Mr. Chairman, Commission members. I wasn’t going to speak, but Mr. Knuff has caused me to come to the podium. It’s hard to find the words to respond to Mr. Knuff and his client. Mr. Knuff’s basic message as I just heard it is, trust us, we’ll get along with the neighbors. The reason that Mr. Knuff’s client and my individual home owner clients have been in litigation now for seven years is that that approach did not work. The single more important thing that this Commission is considering right now is to protect the residential neighbors. I absolutely agree with what Mr. Minor said before, this map, this is the map that protects the neighbors. Now I agree that there is a big difference between 50 and 100 feet, but if you eliminate the protection and you allow these types of uses to be adjacent to residential zones and residential homes, then you have really no control and as was just said, no enforcement mechanism and you are going to have exactly what you, what has caused the litigation to the Firestone which is five bay garage doors that face the homes. One is 110 feet, one is 50 feet, one is 300 feet, another is 300 feet.

These are people who have, because of what Firestone did, a direct line of sight to the garage doors, to the doors opening and closing, and you say the noise issue has been solved. The noise issue has not been solved. The decibel level from the pneumatic tools has been solved, but the noise issue has not been solved. Mr. Knuff’s client is facing a (inaudible) one injunction hearing where we are going to ask to shut down the Firestone because of their seven years of trying to push this envelope and hoping the neighbors don’t have the ability to respond. So you are looking at the zoning regulations, I’m not going to get into the litigation, but the single most important part of the thing in front of this Commission is preserving and protecting the residential uses. This map shows that you are dealing with dozens, if not hundreds of properties in the town that deserve your protection.

Chairman Aieta: Thank you very much. Anyone else? Commissioners, I suggest that we have it open. We’ll take another shot at it next meeting.

Commissioner Claffey: Can we leave it open but add the wording that we heard tonight, or…..

Chairman Aieta: I suggest that the Planner go back and take another look at…..

Commissioner Claffey: Because some of the things that were stated by the public were the things that we stated last time, but weren’t changed or talked about.
Craig Minor: It's a gray area. What I did do after the last meeting was, the suggestions that came from the audience or from the Commission that seemed to be non-controversial and didn't involve any additional protection or not, I made some of those changes. I specifically did not make any changes that might be controversial, that every person might not agree with. I simply did not make some of those, and of course the bigger question of the 100 foot versus the 50 foot is still open. What I did a couple of weeks ago is I did file a copy, I'll call it version B, of the regs with the lesser protection, 50 foot and allowing, and I did file a copy, version B with the Town Clerk and I sent a copy to CRCOG so 30 days after I filed with CRCOG, you could have a hearing on it to satisfy the concern that the neighbors weren't given sufficient notice, and sometimes.......

Chairman Aieta: This is a fall back.

Craig Minor: If it looks like the majority of the Commission wants the 50 foot.....

Commissioner Claffey: You are following the proper steps to protect us.

Chairman Aieta: If as a Commission we decide to go with the 50 feet, we have things in place to have the hearing. If we decide that we are going to go with the 100 feet then that's already filed.

Craig Minor: Right.

Chairman Aieta: Do we need a motion.....

Craig Minor: To continue it, sure.

Commissioner Sobieski moved to continue the hearing. The motion was seconded be Commissioner Claffey: The vote was unanimously in favor of the motion, with seven voting YEA.

C. Petition 12-19: Zoning Text Amendment (Sec. 7.4.21: Erosion and Sedimentation Control Plan) Town Plan and Zoning Commission, Applicant.

Craig Minor: The Town of Newington, like every town in Connecticut has a permit to allow storm water to discharge into the rivers of the State. This is a process that has been in place for a decade or so, and our current permit contains a requirement that we tighten up some of our zoning regulations to protect water quality in Newington. One of the things that we need to do is to first of all, use the correct term for the DEP E & S Guidelines. It used to be January 1985, now it's 2002. So we need to update that.

We need to add a new sentence which says "If the Erosion and Sedimentation Control Plan does not display the name and contact information for the person responsible for the Plan, that information shall be provided to TPZ not less than two weeks prior to construction," and I'm recommending this because applicant's, they always give us a name and a phone number that goes on the mylar of the person theoretically who is responsible for the E & S plan, but usually that is the engineer who designed it. That is not the actual boots on the ground who is responsible, who has been hired by the builder to make sure the silt fence is working, because usually they don't know who that is going to be when the plans are approved by the Commission. They usually don't hire that person until a year later or so. What this regulation will do is require the developer to tell us who the guy is that we should call at three in the morning when there is a storm and the silt fence is failing and muddy water is gushing into inaudible), not the name of the engineer who designed the project.
Who ever it is, the person we call at two in the morning who will jump into his car and come out to the site, again, not the P.E. who designed this from his office in Stratford, or wherever.

Commissioner Woods: When would you expect to get that information?

Craig Minor: That’s what I’m saying. Not less than two weeks before they begin construction.

Commissioner Woods: That’s fair, because by then they will have somebody.

Craig Minor; Yes, they will know at that point who is going to do this.

Commissioner Claffey: Can I ask a question? How does it currently work with complexes that have erosion and sedimentation controls in place and some of them get blown away, failed, how long……

Craig Minor: An example would be the assisted living facility on the top of the hill. I drove by it a couple of weeks ago during a rain storm and again, there was muddy water gushing under the silt fence. So I told Andrew to call whoever it is that we have on file. It was probably Mike Frisbee whose name we have on file, and he is a conscientious person, but he’s the developer. He’s the owner of the land, he’s not the person who has been hired to maintain the site.

Commissioner Claffey: Okay, thank you.

Chairman Aieta: Any questions from the Commissioners? How do you want to proceed with this?

Craig Minor: Close the hearing and move for approval.

Commissioner Sobieski moved to close the hearing and move for approval tonight. The motion was seconded by Commissioner Claffey. The vote was unanimously in favor of the motion, with seven voting YEA.

VIII. APPROVAL OF MINUTES

Commissioner Sobieski moved to approve the minutes of the March 27, 2019 meeting. The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with seven voting YEA.

IX. NEW BUSINESS

A. Petition 15-19: Use Permit (Section 3.15.3: Restaurant Outside Seating) at 2391 Berlin Turnpike (Artichoke Basille’s Pizza) JGF Holding Company, Owner, Matt Rusconi, 195 W. Main Street #16, West Hartford, CT, Applicant/Contact.

Scheduled for Public Hearing
B. Petition 16-19: Site Plan Modification at 2391 Berlin Turnpike (Artichoke Basille’s Pizza) JGF Holding Company, Owner, Matt Rusconi, 195 W. Main Street #16 West Hartford, CT Applicant/Contact.

Scheduled for Public Hearing

C. Newington Ridge Preserve

Craig Minor: I can report the home owners had a meeting with the developer a couple of weeks ago, and the developer agreed to do certain things by a deadline that is maybe this month. Hopefully at our next meeting I’ll report that the developer has completed his application for a wetlands permit, in consultation with the home owners because they are a co-owner and they will move forward.

Now I have been, I speak to various people at that project, I speak to some of the home owners, I speak for the officers of the HOA who were not there in person, and some of the homeowners want to be more aggressive than others as far as calling the bond, so it’s certainly possible that at the next TPZ meeting some of the homeowners, maybe even the Association itself will come to you and say, that’s enough, it’s time to call the bond.

I told them, if that is what they want to do, don’t expect the Commission to be able to take action that night, because if the Commission decides to call the bond, that needs to be prepared in advance, talk to the Town Attorney to make sure it is worded correctly, and so forth, so that is not going to happen off the cuff.

Commissioner Sobieski: Just one quick question, you are dealing with the Association itself and not individual owners? Right?

Craig Minor: I’m dealing with both, because I will take a call from anybody, but I only act on something that comes from the president of the HOA.

Commissioner Sobieski: The Association, that is what I wanted to make clear. Thank you.

Chairman Aieta: Any other questions?

Commissioner Woods: In respect to the home owners in that Association, it would be this Commission that would pull the bond and not because they requested it. They can ask this Commission to do that, but it would be our finding, and then I would think once we do it, then we are out of it, it becomes legal.....

Craig Minor: Actually there are a couple of options that have been kicked around in this specific situation. There has been talk about, if the Commission decides to call the bond, working out an agreement with the homeowners association with oversight by the town, and let them G.C. the project so to speak. That is one idea that has been kicked around. The other idea was for the Town itself to hire a contractor to finish the work, and then the Town would oversee the project. This has been kicked around for a couple of years now.

Commissioner Woods: I’d kick it around a little more. You don’t want the town involved. What happens if we get involved in it, and I’m going to make this up, there is $150,000, but there is $200,000 worth of work. Do we stop at the $150,000? So when we go in, do we know take responsibility for that. I think this is something that the homeowners need to work out with the developer.
Newington TPZ Commission

Commissioner Claffey: Why are they doing an about face?
Craig Minor: Differences of opinion.

Commissioner Claffey: Have the calculations, like the boor test results, was that ever given to us, or to you to disseminate to us?
Craig Minor: It's pretty well established that the resurfacing of the road that was done, was not done correctly and that the repair is going to be substantial. They made it worse.

Commissioner Claffey: What is our engineering department saying?
Craig Minor: They made it worse.

Commissioner Woods: Are we at the point where they could build more houses there? Did the developer get a permit?
Craig Minor: There are problems with the wetlands permit that they haven’t complied with that is holding the builder up from being able to build homes.

Commissioner Woods: That is probably how this is going to go away, if he gets an infusion of cash, to get everything done. Okay, thank you.

X. OLD BUSINESS

A. Petition 07-19: Special Permit (Sec. 3.2.1: Churches and Places of Worship at 6 Church Street. Vaishnav Panivar of CT, Owner/Applicant, Rajeev Desai, 712 France Street, Rocky Hill CT, Contact.

Postponed

B. Update on Petition 01-18: site Plan Approval at 3443 Berlin Turnpike (O’Reilly Auto Parts) Garrett Hoes LLC. Applicant, Edward and Laura Seremet, Owners; Michael Sullivan P.E. 356 Research Parkway, Meriden CT, Contact.

Discussed under Approval of Agenda

Chairman Aieta: Do you have a motion for the one that we just did?
Craig Minor: Yes.

Petition 12-19
Zoning Text Amendment Sec. 7.4.21: Erosion and Sedimentation Control Plan) Town Plan and Zoning Commission, applicant.

Commissioner Claffey moved to approve, effective upon publication, Petition 12-19: Zoning Text Amendment (Sec. 7.4.21: Erosion and Sedimentation Control Plan.) Town Plan and Zoning Commission, applicant.

The motion was seconded by Commissioner Woods. The vote was unanimously in favor of the motion, with seven voting YEA.
Petition 11-19  
Special Permit (Section 3.15.3: Restaurant Outside Seating at 3260 Berlin Turnpike (Plaza Azteca) John Kennelly applicant, Kleban Newington, LLC, owner, Manuel Rubio, 3260 Berlin Turnpike, Newington, CT, contact.

Commissioner Claffey moved to approve, with conditions, Petition 11-19: Special Permit  
(Section 3.15.3: Restaurant Outside Seating at 3260 Berlin Turnpike (Plaza Azteca) John Kennelly applicant, Kleban Newington, LLC, owner, Manuel Rubio, 3260 Berlin Turnpike, Newington, CT, contact.

Conditions:

1. Occupancy level calculations to be determined by the Newington Fire Marshal’s Department.
2. Have Fire Marshal staff present at the special event paid by special permit applicant.
3. Have Police staff present at special event paid by special permit applicant.
4. Special Permit Applicant attorney be present at during special event’s hours of operation.
5. Proper insurance covered by applicant to hold the Town Of Newington harmless.
6. Proper cash bond for the need for property clean-up after the event if applicant doesn’t have proper (inaudible) in adjacent tenant spaces.

The motion was seconded by Commissioner Sobieski.

Chairman Aieta: Motion made and seconded. I’ll open it up for discussion and comments.

Commissioner Sobieski: I believe Chief Clark wanted payment well in advance which I did not hear in the motion. I think we should put that in. I can’t remember how soon he wanted it in advance but I would think at least 30 days.

Craig Minor: Thirty days, that’s not possible.

Commissioner Sobieski: I’m sorry, well in advance, within the next couple of days.

Commissioner Claffey: So, condition number three, have police staff present at special event paid by special permit applicant paid in advance of the special event.

Craig Minor: Yes, but you need to get something, five days before, a week before.

Attorney Kennelly: Excuse me, but the police tell me what the number is, so I have to get the information from the police to pay them.

Commissioner Woods: As long as he pays in advance.....

Commissioner Fox: The applicant, Attorney Kennelly had said he would have a hold harmless effective for one day, now I would like to see that at least, effective at least until 2:00 a.m. the next morning. So if it starts at 12:00 p.m. go until 2:00 a.m. or until 10:00 p.m. when they close or even 1:00 when the restaurant closes, anybody could be driving around a little later, late in getting across the street, or whatever, and then get hurt.

Commissioner Claffey: Proper insurance, Item 5, change the proper insurance coverage that will hold the Town Of Newington harmless, to be extended for one hour past the closing time of the event. That is 1:00 a.m. so it would be 2:00 a.m.
Craig Minor: I think what the attorney was saying was, there is not such thing as hold harmless. Additional insured is the phrase that traditionally is used.

Chairman Aieta: Hold Harmless and Additional Insured are two different things, insurance terms.

Commissioner Claffey: Every time I write it, you guys want to change it.

Chairman Aieta: Well, we're discussing it Anthony so we can change it.

Commissioner Claffey: We should have discussed it before we wrote it into the record.

Chairman Aieta: No, it's not in the record.

Craig Minor: Do you also want to specify the limits that Attorney Kennelly suggested? The one-three-five million. It doesn't mean anything to me, but do you want that in the motion also?

Commissioner Fox: As long as it is effective all night.

Craig Minor: For the duration of the event.

Commissioner Fox: After the place closes, not after the event.

Craig Minor: I would assume that he is going to get the right insurance for his client and we are going to be included in it, we are going to be an additional insurer. He's not going to have it end at midnight that would be ridiculous, so.....

Chairman Aieta: He already has the insurance in place, he goes to the agent and says, I want to put on the insurance certificate an additional insurer, the Town of Newington for this specific event and it will end at one o'clock or two o'clock in the morning. That's how it would be written,

Attorney Kennelly: Correct and I will provide a declaration page.

Chairman Aieta: You will provide to the town an insurance certificate?

Attorney Kennelly: That is what is called a declaration page, adding in the additional insured pursuant to this discussion.

Chairman Aieta: Any other additions to the motion? The motion was made and seconded, could be have a roll call vote? The Chairman will vote last.

The vote was unanimously in favor of the motion after a roll call vote with seven voting YEA.

Chairman Aieta: This Commission is going to hold your feet to the fire and hopefully this year will be an example of how it should be done. Good luck.

Attorney Kennelly: I will be there all day, so I'll make sure. Thank you Commissioners.

Chairman Aieta: I'm sure that our Council people will take a drive by.
XI. PETITIONS FOR PUBLIC HEARING SCHEDULING

None

Chairman Aieta: But you have Artichoke, right?

Craig Minor: Yes that will be on for the next meeting, for the public hearing.

XII. TOWN PLANNER REPORT

Craig Minor: I had two items in my report and we talked about the update to the POCD and the other item, I just wanted to suggest that the Commission consider, and this is something that the ZEO and I talked about. Under the regulations a homeowner is allowed to have what is called an oversize vehicle. That is pretty complicated, but just think big truck, whatever. However, it can not be parked in front of the house. It has to be either to the side of the house or behind the house and that is usually sufficient, but in many cases we've had, one non-conforming for years, where he has a van that his company has assigned to him, and he has a little cape with a very small yard, and he parks his van in his driveway, in front of his house which is a violation of the regs. He's been doing it for decades, so he is grandfathered, so he is allowed, but no one else can do that because the rule is that it cannot be in front of the house, it has to be behind or beside the house.

We got to thinking about this the other day, because we had gotten two different complaints about two different tractor trailer drivers who bring their cabs home because they live here, and they park the tractor portion in the driveway. We've gotten some calls about this situation, but in neither case was it an actual complaint from a neighbor, it was just, it was brought to our attention that these are zoning violations.

What I would suggest that we consider is amending the regs to allow someone who has an oversize vehicle to be allowed to park in the driveway in front of his house by special permit. Making it allowable by special permit means that he would have to come in here for a public hearing, his neighbors would be notified, they would have a chance to say no, we don't want our neighbor to be allowed to park a big truck right in front of the house. We want him to stay in back or on the side.

So I'm just throwing it out to you and maybe in a couple of meetings we can talk about it some more, but this is way to make things a little more convenient for the person who drives a truck for a living. So, just throwing it out there.

Chairman Aieta: The only thing I can see from that is the size of the thing. You are talking about a tractor trailer, or the front portion of the tractor trailer, eighteen wheeler, that is a big vehicle. You are talking about van like, a cargo van for someone like a plumber or electrician, that's a different story. The size of these things, they vary, I don't see it as a problem, but I think we are making a problem. We're trying to solve something that is not a problem, if you only had a couple of complaints. I'll open it up to the Commissioners.

Commissioner Claffey: Do we have a definition of an oversize vehicle and how does that coincide with what a commercial vehicle is?

Craig Minor: I can't answer that question, but we have a definition of commercial vehicles and the person is allowed on commercial vehicle in the back and a second one by special permit. The definition of commercial vehicle is a page in the zoning regs.
Commissioner Claffey: That’s why it is a complex issue, because if I drove a big rig, and parked it in my back yard, it’s okay, but the minute I put my son’s plumbing van in my front yard, that’s a violation, but that 35,000 pound truck is okay to be in the back yard.

Craig Minor: Currently under your regulations, yes.

Commissioner Claffey: So how does that coincide with the commercial vehicle that we changed about a year and a half ago.

Craig Minor: Same thing. That’s what we are talking about. What I am suggesting is now that that regulation has been in place for a couple of years, there is a tweak that I’m suggesting.

Commissioner Woods: That commercial vehicle would only be allowed in the back yard if there was a driveway, you couldn’t drive it around and park in on the lawn. I’m assuming that is the way......

Craig Minor: I’m not sure you wouldn’t be allowed to drive it across his side yard lawn to get to the back, as much as that makes me cringe, I don’t think there is anything in the regs that would stop someone from doing that.

Chairman Aieta: The regs, the way that this is set up is almost comical.

Commissioner Woods: Let me ask this question, because I think I know where you are going, if we were to do this by special permit, it is case by case, so if the neighborhood came out and said, we don’t want this vehicle there, we probably wouldn’t allow it, but if they came out and said, hey, we’re find with it, and I don’t know how big a deal this is. I would rather do it over the years, but people that I do business with, sometime they are forced because it comes down to the fact that the two neighbors don’t like each other, and it’s more about neighbors not liking each other than having an issue with the truck.

Everytime we do something, we create an issue.

Commissioner Claffey: That being said Commissioner Woods, if there is a resident in town that feels our zoning regs have been good to these larger vehicles, they make our town look better, feel better, but he has no say because it is on the other side of town, and it directly doesn’t impact their neighborhood, but it does impact their town. You have.......

Craig Minor: They could come to the hearing, they wouldn’t get a letter telling them, but they could see the red and white sign in front, and if they saw the sign could call and just ask what is going on. I would tell them and then they could decide whether they wanted to come and speak or if they wanted to stay home.

Commissioner Claffey: So why would we want to segregate it and streamline it just to the abutting neighbors?

Craig Minor: I’m just saying, if there was a public hearing, the neighbors could come and speak in favor or against. They would have a say.

Commissioner Woods: And that person who lives on the other side of town and drives by it every day would have an equal say.
Craig Minor: And it would be weighed however you chose to weigh it, like any comment at a public hearing.

Commissioner Claffey: With you and the ZEO looking at it, was there anything else that popped up in complaints or thought processes on that regulation that should be active or corrected?

Craig Minor: Nothing comes to mind, but that is a good question. Strictly with this oversize vehicle problem, nothing comes to mind since we have adopted it.

Commissioner Claffey: Nothing with RV's or anything?

Craig Minor: Nothing.

Chairman Aieta: How many complaints have you gotten? How big an issue is it?

Craig Minor: It's not so much a big issue, as much as it is something that occurred to the staff. We want to be business friendly, we don't want to sacrifice the residential quality of the neighborhood, but there are a lot of self-employed people who drive a truck, it's important to their job, who.

Chairman Aieta: It comes down to the same thing we have talked about before, unless someone complains, if we put all these little things in the zoning regulations, it would make the zoning regulations so complicated that they are hard to regulate. We have problems regulating what we have now. I say if the Zoning Enforcement Officer sees a truck or a van in someone's yard, you don't go over there and tell them to move it, but if he gets complaints, then we have to act on complaints. I don't want to start making the regulations so complicated that they are hard to enforce. Like we should have a section for the guy who puts the windshield wiper on, he'd be allowed to do it, have a laundry list of things that they can do, that they can't do, you know, the regulations would be unwieldy. It's up to the Commission if they want to take this on it, another meeting and discuss it further. If you want to bring it up again as another point.

Craig Minor: I don't think I will, but I brought it up and if any Commissioner does want to then they can bring it up at a future meeting.

Chairman Aieta: If you see that all of a sudden you start getting a bunch of complaints, I would suggest to the Zoning Enforcement Officer that we don't go looking for them.

Craig Minor: Okay, that's all I have.

XIII. COMMUNICATIONS

Commissioner Sobieski: I sent all of the CRCOG communications out to everybody as I get them. I was on a conference call tonight with CRCOG because we are modifying the rules for our Commission, it's just because they expanded the number of towns in CRCOG, we're at 38 and they have to readjust their master plan to show the 38 towns that are now part of CRCOG Greater Hartford. Thank you.
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 Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Fox. The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Nonie Addis,
Recording Secretary