NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

May 8, 2019

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 Domenic Pane
Commissioner Stanley Sobieski
Commissioner Stephen Woods
Commissioner Hyman Braverman-A

Commissioners Absent

Commissioner John Bottalico-A
Commissioner Giangrave-A

Staff Present

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

III. APPROVAL OF AGENDA

Craig Minor: Mr. Chairman, I recommend moving item VIII C, POCD update to, just up to after Item V, Public Participation.

Chairman Aieta: Any questions on that? I don’t think we need to have the consultant sitting though the whole meeting.

IV. APPROVAL OF MINUTES

Commissioner Pane moved to approve the minutes of the April 24, 2019 regular meeting. The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with seven voting YEA.

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

None

Glenn Chalder: Good evening Mr. Chairman, Members of the Commission. I was here a month ago and in the past month we have completed the agreement with the Town so everything is all executed, insurance, all of the other requirements, and as a result of that, I haven't had a chance to dig into the work yet, so our meeting at the end of May I think is probably going to be a roll over into June. We had originally talked about June 24th, as being the date for our public information meeting. I understand that the Commission had some questions at your last meeting, and I asked Craig if I could be here tonight just to kind of review the scope, the process, if you will for the public meeting so that we can move ahead. The summer months are a difficult time to do a public meeting, so I would like to try to get it in June if we can, but more than anything else, I want to make sure that the Commission has a good understanding as how the process unfolds, so I'm here tonight, happy to get your impressions, go through the scope of work with you again as we did last month.....

Craig Minor: Can I interrupt? The Commission asked me recently to take advantage of the tax mailing, so I have been talking with our tax collector about that. The tax mailing unfortunately is going out on June 28th, which will be two days after we tentatively scheduled having the public information meeting. I'm still collecting information on how much it would cost and what the procedure is to use the tax mailing, but if we decide to go that route obviously then the date would have to be other than June 26th.

Chairman Aieta: Normally how do you get people to participate?

Glenn Chalder: There are a number of methods that we like to use. The Town has social media accounts, so we will use those. We will do typical press releases, we will put posters up around town to create information around town. It is difficult some times these days to get people to come to meetings because there are a lot of things on their agenda. One of the things we have some success in doing is putting up signs around town and we do these about a month in advance of the meeting, and we take them down the night of the meeting. The whole idea is, people see a poster or a press release or a story or something on social media, they tend to forget it fairly quickly. But a sign, we have had some good fortune, I realize it is a sensitive subject which is why I wanted to bring the signs so that you could actually see them. Other towns have done this, so it's a very effective way. I would say it easily doubles, maybe triples participation at the meeting.

The first sign that goes up, is Plan that your kids will live here. Many people have made a decision to live in Newington, they love the community, so planning to them is not really a hands on thing. But when you talk about making a community for their kids, their grandkids, people start to come alive and get more interested in what is going on And this is actually a challenge for people, which I'm sure you are not going to make it the most fun they have ever had at a public meeting, but the exercises that we do do in fact make it fun, informative and interesting. I think that the mailer goes to every household in town, I hope that they will keep that piece of paper and put it on their calendar and go ahead. In the absence of that, I would ask your blessing, or permission if you will to go the sign route because it can be very effective, so, I realize that signs are a sensitive issue in communities, I don't want to upset any apple carts but public participation at these early meetings is critical, the issues that Newington residents feel are important. To get them at this meeting and give them a chance to talk about this stuff and pull out of them, allow them to take the 2010 Plan and really refine it based on the issues that you are concerned about. I'd like to start off with a bang at that meeting in June, July, whatever the Commission feels is the right way to go.
Chairman Aieta: I think we should take advantage of the tax bill, it is something that we discussed when we had the 2020 Plan. As far as the signs are concerned, I think we would be able to relax them for our own use, particularly since Parks and Rec came in and told us they were going to be putting up signs. This will be a town function, and as long as we get them up and get them down within a reasonable time.....

Glenn Chalder: I'll take responsibility for the signs Mr. Chairman.

Commissioner Sobieski: Have you thought about the billboards that we have in town, the one in the center of town, maybe we could use those the week before? I'm just asking the question, I don't know.

Chairman Aieta: Where would you put them up, those are lawn signs, right?

Glenn Chalder: Correct.

Chairman Aieta: How do you get people, get places to put them?

Glenn Chalder: We drive around town, look at the town and intersections where traffic flow is likely and we go through and find places that are not in people's front yards, we're looking for sort of communal space, so it could be space in front of a school or another town facility. It could be space in front of woods or a forest, but places where people are going to see them. My wife used to be in marketing and she used to say you have to see a message seven times before it sinks in. I think after a while, but maybe that is when she is just talking to me, she gets up to seven times before I pick up, but the whole idea with the signage is that after a while people, they can't ignore it any more. If you are interested now in the sign, hopefully you will make the commitment to come.

Commissioner Woods: I was going to ask how many signs is it going to take, but I actually think it is a good idea since they will be strategically located, say at the end of Garfield Street here and Willard Avenue, there is a tremendous amount of traffic going in and out of this building. We have our fire departments scattered across town, we could take advantage of that. The schools, people going in and out of schools, and then social media is going to pick up on it. Whether it is one associated with the town, or just someone living in the town, I think if they pick up on it, it will be a good thing because you are not only going to get it on the lawns of those places, they are going to take a picture of it and it's going to get blasted out to the three, four, five, six, thousand whatever they have for a readership. I think it's a good idea. That way, we can say we got the message out, don't tell us that we didn't. We want to listen to you, we want to hear, we need your input, it's your community. Thank you.

Commissioner Pane: I agree with the signs, but I agree with the Chairman that I think that we should have some sort of notice in the tax bill. If that comes out on June 28th, I'm not sure, I guess, the early part of July I guess. That would be the early part of the summer, and this won't be the only public hearing, so even though it is the summer it's not going to be the only public hearing. I was wondering if in the notice that we send out with the tax bills, is it possible that we could give some sort of schedule so they will know about all of the public hearings that we are talking about.

Craig Minor: I got some prices from the mailing company that the Town uses. The cheapest way to do it, well, actually there are a couple of decisions that I need you to make for me. The cheapest mailer would be on a folded piece of paper, that is the cheapest. The largest would be an 8 ½ x 11, double sided, color, we can go as crazy as we want. So.....

Commissioner Pane: I was thinking a small, little insert.
Craig Minor: That is what I was thinking about too.

Commissioner Pane: So you could probably get four to a page, and they would cut them and then, we already have the envelopes for the tax bill, so it’s just a matter of inserting…..

Craig Minor: Yes, they do that, it’s part of the charge. There will be an initial charge for us, it will be, depending on what size you want go, between six or seven hundred dollars additional charge, but it’s probably money well spent.

Commissioner Pane: I think so, yes.

Glenn Chalder: If I may Mr. Chairman, we had talked about the fourth meeting of the month as being our meeting time, and the fourth Wednesday is right in the middle of summer. I agree with Mr. Pane that that can be a challenge. Now days, school is starting earlier, so the end of August the fourth Wednesday in August is probably an okay date. In fact, right after that is when we start to kick in to the listening sessions. So I can be preparing material in the background, we can do that big public meeting at the end of August and it would roll right into our regular schedule.

Commissioner Pane: We had talked about the fourth Wednesday that we didn’t think it was fair to the applicants to have the entire meeting towards the Plan of Development, so we are going to do some business activity I believe, and allocate a time period for the 2020 Plan.

Glenn Chalder: I understand, that is what we talked about, isn’t it Mr. Chairman?

Chairman Aieta: Yes, I think the Commission agreed that we are not going to skip a meeting with business.

Glenn Chalder: If on this one night of the public hearing we could adjust that so that, the meeting is very participatory, it’s very active, it’s really not a sit down commission meeting type of approach, and so it might be a bit of a challenge unless we are there and that meeting starts at 7:00 or 7:30 and we can discuss business before that.

Commissioner Pane: Maybe that meeting shouldn’t be the same night as the TPZ meeting. It sounds like it should just be a separate night for the very first time, because it sounds like you already engaged the public.

Glenn Chalder: That’s actually a good recommendation.

Chairman Aieta: I think, Craig, come up with a date for that hearing that he is talking about, near the end of August. Let’s make a decision on that so that we can start.

Craig Minor: Okay, and I need to get information to the treasurer by May 28th. It sounds like the consensus is late August. Then I will work with the Chairman to nail down the actual date.

Glenn Chalder: I think the end of August is good, and actually I’ll have the mailer together in rough draft so the Commission can see it at your next meeting which is May 22, and then if there are any adjustments we’ll be done in time so we can make sure we hit that mailer so it goes out. I think it sounds like the formation of a plan that I think works well.

Commissioner Woods: I have no problem with the Chairman and the Planner going over the mailer and deciding, just to expedite it so it will be on time.

Chairman Aieta: Is that all right with the rest of the Commission? Or do you want to see it?
Commissioner Pane: I think the Chairman and the Planner can cover that. Glenn, do you have a problem with getting some sort of schedule......

Glenn Chalder: Absolutely not, I was thinking on the back side, on the front side we need something attention grabbing if you will, to try to get people, because when the tax bill comes, you don't want them to throw away the other piece of paper, so some way we have to let them know what is gong on, maybe even tease a little bit with the signs, etc., so they will buy into all of that, and then I think on the back side of that piece of paper is a sense of the schedule, the milestones, so even if the end of August doesn't work for everybody, there will be other times in the process, so.....

Craig Minor: One more piece of guidance from you. The tax bills, and the motor vehicle and real estate go in the same envelope obviously. Last year there were 22,000 of them so I talked to Corrine about this, and I asked how many people only got motor vehicle bills, and the answer was some 16,000. So I'm going to suggest that you think about sending the notice only to people who get motor vehicle tax bills, because that is still going to be a pretty wide distribution and it will save a fair amount of money.

Commissioner Pane: Why not the other way around, just houses?

Craig Minor: I asked the mailing company how fine they can slice and dice who would get the slip of paper, but you would like, so each household gets one?

Chairman Aieta: So if you put it in the envelope for the tax bills for the cars, do we get them all in one envelope?

Craig Minor: If you get two, they come in one envelope. Like I said, last year there were 22,000 that got mailed out, but if you only mail a notice to someone who has a car, which is pretty much everybody in Newington, then that might be sufficient. That would save about a third of the expense.

Commissioner Woods: I pay my taxes currently to the town, so it's not through a mortgage company. If you are paying through a mortgage company the tax bill goes to the mortgage company, the tax bill goes to the mortgage company, so I think you are right, it makes more sense to send it to the automotive, because if they have a mortgage, they aren't going to see it.

Commissioner Claffey: I don't see it.

Chairman Aieta: Anything else Craig?

Craig Minor: No.

VI. ZONING ENFORCEMENT OFFICER REPORT

Andrew Armstrong: Good evening everyone. I do not have any temporary sign applications to present to you tonight. We had one renewal, Mortensen’s Ice Cream at 3145 Berlin Turnpike. With that, were there any questions on the April, 2019 ZEO report?

Commissioner Claffey: You answered my question on Mortensen’s, I saw that it was out today. McBride Plaza, is that specific to a tenant?

Andrew Armstrong: McBride Carpet.
Commissioner Claffey: 3455 Berlin Turnpike, page 3, those banners, they are still out there.

Andrew Armstrong: They were taking it down......

Commissioner Claffey: It's still there.

Andrew Armstrong: I saw a guy up there, he had taken it down. I’ll look into that.

Commissioner Claffey: 3475, Stew Leonards, on page 4, last year they came before us for their two signs, and we denied it, and now they are automatically violating them, is there any, do we start over again Craig, or........

We had a lengthy discussion here with them last spring.

Chairman Aieta: They were going to put it inside.

Commissioner Claffey: They wanted three signs, one at each of their entrances, they said they had three entrances even thought it’s the vestibule, but any further than that, I don’t know. 277 Cedar Street, is that a specific business, I don’t see a name?

Andrew Armstrong: No, it was in the right of way I believe, but it was associated with that address. It wasn’t actually the property owner, I believe it was an off premise sign, temporary sign.

Commissioner Claffey: 44 Dean Drive, on page 6, I brought this up when we talked about, a few years ago, about all the containers that people use them when selling the house or fixing up after a flood or something like that. This doesn’t seem long, and boom, we are right out there. If someone is closing on a house, or doing a repair, and they need this, I don't know how it is a violation if it is part of an insurance claim or something like that. It really never got resolved Craig, when we went though this the last time.

Craig Minor: I think we decided that it was too complicated for a one size fits all regulation.

Commissioner Claffey: So it someone has a need for one for renovation or insurance or they are moving, they get a violation even though......

Andrew Armstrong: We allow storage units for 60 days as long as it is behind the home. In this particular case the complaint said that the storage unit has been there for a year, and so that is when I got involved.

Chairman Aieta: So they still have some time, you gave them thirty days from March 18th, that’s now expired, check it out.

Commissioner Claffey: Question on the Fenn Road properties, 36 Fenn Road, Verizon, Express Cuts, Verizon specifically is compliant on the 1st of March and now you are back to violations on the 22nd of April. So does that go directly into violations because you already have the violations recorded and inspections and all of the notes to set up, rather than doing that all again when they violate again.

Andrew Armstrong: The evolution of this complaint I was doing my best to speak with them face to face, and I, the first time I went in there I spoke with an associate, and the second time I spoke to the manager, and the third time I called the owner. So if it’s not compliant after that then I will send a letter and take further action.
Commissioner Claffey: So are we going to close that when it becomes compliant? Are we closing these out, or are we keeping them open, because the way I look at this report is both these properties, they became compliant and then the next week, excuse me, the next month, they went back into non-compliance. Would we issue a new........

Andrew Armstrong: I listed it that way so you could see the full time line.

Commissioner Claffey: Gotcha.

I had one last, two last ones, 136 West Hartford Road, that truck is back again last night.

Andrew Armstrong: Okay, I haven't seen it, I've driven by a few times.

Commissioner Claffey: The tan truck is back. He has three trucks, a red, a tan and a blue. Thank you, that's all I have.

Chairman Aieta: Anyone else?

VII. REMARKS BY COMMISSIONERS

Commissioner Fox: Just briefly, to the Planner, I don't want to open up a can of worms, it was kind of tough Sunday for Plaza Azteca so I would appreciate it if you could request reports from the police department and fire and keep them on file for next year.

Craig Minor: Yes I did already, I've already asked the Chief of Police and the Fire Marshal for the same action report that we got last year to have for next year.

Commissioner Fox: Okay, thank you.

VIII. NEW BUSINESS

A. Petition 17-19: Site Plan Modification at 252 Brockett Street. JFG Holding Company, LLC Owner/Applicant, John Formato, 798 Southing Road, Berlin CT, Contact.

Chairman Aieta: Is this the patio or.....

Craig Minor: This is the other one.

Chairman Aieta: This is the drive though?

Craig Minor: Right. If you look at the screen behind you, this is an excerpt from what they have submitted.

Commissioner Claffey: What business is it?

Craig Minor: It's a plaza

Commissioner Claffey: Yes, but what business does the drive through belong to? Oh, it's a drive though.

Craig Minor: Yes that kind of drive though, a driveway.

Commissioner Woods: A pass though.
Dante Boffi: Dante J. Boffi Design, LLC: I'm representing JGF Holding. This, up on the screen is where the proposed pass through between the Plaza Azteca parking lot and the 262 Brockett which has the Sculptures Hair Salon, the eye shop, the pastry shop, and I guess just to give you a little background, I know we talked about this two weeks ago, we went through the site plan approval process the first time, and they did execute the plan as proposed. During construction the site contractor had suggested to him since there was already a gentleman's agreement between the owners of Plaza Azteca and him to use each other's parking lots for employees, maybe you should pave this little area connecting. At the time, the owner said, that's a great idea, why don't you do it, we have to do an as built anyway, we'll give that to the town and put it on record.

From what I am being told, it's not a completed project, there is no curbing, he just literally laid about an inch and a half of bituminous between the two properties. He said that he did call the Town Engineer to have him come out, and sought direction on what to do next to make the pass through proper. They told him to go through this process. That is kind of where we are now, actually I have spoken to him, and I think he understands better that doing what he did was not the right way to go, and I know he is apologizing for that, it was sort of an impromptu thing by the site contractor, like I said, there is still work to do to complete it. I believe there is a $30,000.00 bond with the town for his, so he is trying to correct a wrong and finish this the right way, and again, he has noted that Plaza Azteca has agreed.....

Commissioner Fox: Don't you mean Puerto Vallarta?

Dante Boffi: I'm sorry, yes, that they would draft a letter, an agreement for the pass through and having the employees share the parking lot.

Commissioner Paane: We had a request for information, some minutes......

Craig Minor: I'm sorry, no I didn't do that. I did give you a copy of the original plan, it's in your packet.

Commissioner Pane: Commissioner Fox was talking about some parking and I mentioned that it would be nice to have the minutes, but I think that one way is going to be difficult because I think that people are still going to come in the opposite way, and it's going to be used as a two way, even though it's a one way. I think I would rather see it the way that it was designed. That's just me.

Commissioner Claffey: Is there a permanent, visible property line between the two properties, or is it one big parcel.

Craig Minor: No, that bold, dash, dash, that is the property line.

Commissioner Claffey: Secondly, that property, when it was redesigned, that parcel of land that had to be (inaudible) out, were there any easements that are still in the vicinity of this so called pass through?

Craig Minor: I think there are some drainage, MDC utilities, but other than that impact, it is used as a pass through.

Commissioner Claffey: So what is the concrete pad over here?

Craig Minor: That is where the dumpster would have gone, which was going to go where the pass through is now.
Commissioner Claffey: So I look at this top sheet, the original for 262 Brockett Street and 2391 Berlin Turnpike, is that the original address, the Berlin Turnpike or is that 2391 for Puerto Vallarta?

Craig Minor: The, I’ll call it the plaza, where the building that has the beauty parlor and the pastry shop there and another building, or another business, and then there is the building where Artichoke Basille is. Those two lots have been merged and the Artichoke Basille had the Berlin Turnpike address and for marketing purposes they really like keeping that Berlin Turnpike address which makes sense, except that you can’t get there from the Berlin Turnpike anymore, you can only get there from 262 Brockett Street. But you will still see people use the Berlin Turnpike four digit number for reference, but we aren’t talking about (inaudible).

Commissioner Claffey: The information for 2391 is not Puerto Vallarta?

Craig Minor: No, that’s the pizza shop.

Commissioner Claffey: Secondly, the new addition on the back building, the parking the way that it was originally designed was modified on the site plan to accommodate that building also, so this parking is not just for the Artichoke originally, it’s for the whole complex.

Craig Minor: Correct.

Commissioner Claffey: It never had any, I don’t think it was ever tied in with the, it never had a pass through prior. That’s where they changed this. It was always a dead end. Parking lot between these two properties, a grass knoll between them. I just want to make sure there was never a pass through before.

Chairman Aieta: There was not a pass through before. It was not a physical paved area. They used to walk across between the two parcels. They couldn’t drive across there. The people from the hair dressers used to park in the Mexican restaurant’s parking lot and they would walk over there, but they could not access it from their property and could access it from the Berlin Turnpike through that restaurant. This is new, this is something, this wasn’t there before.

Commissioner Fox: I can see problems with this not really being used as a one way, people coming in from the turnpike, and did you say that was going to be for employees only?

Dante Boffi: Yes, I think the engineer explained they did it for two reasons. One, safety reasons, it’s a small, narrow, you don’t want to encourage two way traffic, and it is used predominately as the Chairman said by the Sculptures employees. So rather than having the Sculpture’s employees entering through the Mexican restaurant site, they would still enter through the Sculpture’s site, park in the back and then........

Commissioner Fox: I can understand that, but on a busy weekend I think, and Puerto Vallerta is quite busy, I’m sure if there was any kind of a parking problem people would be crossing over, I don’t know, unless you could put a gate on that or something.

Commissioner Claffey: I have one last question, with the change here, how many parking spaces do you have to delete?

Dante Boffi: I apologize, I don’t have the site plan in front of me, I believe there was, with the pass through from the original, I believe there was only one space difference because of the concrete pad.
Commissioner Sobieski: Mr. Chairman, you might be able to resolve this, since it is only sixteen feet wide, you might be able to stripe it so you narrow it down so it is only twelve feet per vehicle pass through.

Chairman Aieta: Any other remarks?

Chairman Aieta: I think at the last meeting, maybe this was already said, the Town Engineer said something about losing one parking space.

Craig Minor: This parking space is a problem and I think that is why the designer recommended one way. If there was a car here and a car coming down here, they are not going to see each other. This car is going to back up and this car driving south, so he recommended removing this parking space since on paper this site had enough parking. He recommended that this be somehow eliminated as a parking space.

Chairman Aieta: Stanley, the sixteen feet, is that adequate for two way traffic?

Commissioner Sobieski: No, it's got to be at least twenty.

Chairman Aieta: Any other Commissioner remarks?

Commissioner Woods: If we don't approve it, so are we looking to have everything put back to the original site plan and if we don't, that space is lost anyway.

Craig Minor: No, the dumpster pad was going to go where the pass through is....

Commissioner Woods: The dumpster pad right now, is where the new site plan is showing it.

Craig Minor: Yes, you're right. It is currently where .......

Commissioner Woods: So does the dumpster pad have to be demolished and moved back to where it was supposed to be originally.

Craig Minor: Absent any other instruction from the Commission, that is what the ZEO is going to tell him to do. At the end of the day, it has to look like it was a couple of years ago, which means that the dumpster would be where the pass through is.

Commissioner Woods: I don't think this is going to be a cut through. I don't see where anybody is going to come off the Berlin Turnpike, going through Puerto Vallarta to pick up some time, they are just going to Brockett and take a right, so if it serves the two property owners well, I really don't have an issue with it.

Chairman Aieta: Do you have the information from Puerto Vallarta? A letter saying that they agree.....

Dante Boffi: Their spokesperson talked to me today and said that Puerto Vallarta's attorney said that whatever language or information or contract the Town would require, they are ready to present. They just weren't sure which form you would like, if you would like it to be more of a contract form or just a letter of acknowledgement, however you would like it written they would be happy to, so I think the root of this is that it wasn't engaged with any of the surrounding streets, or any other properties the size of the two, they were in mutual agreement, truly didn't think this would be any kind of an issue and thought it would be a no brainer to get it approved. He wouldn't have done this in the beginning had he thought it was going to upset the applecart.
It truly wasn't done with any malice. It's two property owners who have no problem with sharing of the parking and this seemed like a logical way to connect them. But anything you need done to that plan, or documentation from either owner, they are happy to supply.

Craig Minor: That would be a condition of approval that there be an easement on file in the land records so that future property owners know what they are buying.

Chairman Aieta: Any other Commissioner comments? It's under New Business, what is the pleasure of the Commissioners.

Craig Minor: There is a draft motion in your folder.

Commissioner Woods moved that Petition 17-19 be closed and moved it to Old Business for Action tonight. The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with seven voting YEA.

Chairman Aieta: We'll close this and move it to Old Business, Item D.

Craig Minor: You could just act on it now, you don't have to move it to Old Business.

Commissioner Claffey: Here is the question that I have. We are acting on something that we have no documentation, just saying, oh, you are going to send it to us later. That's a pretty big condition across property lines easements, as compared to most of the other add-on's that we do.

Craig Minor: No it isn't. This is fairly common....

Commissioner Claffey: You say it's common, but it's not in front of us. If it's so common, and this is not a big deal, I think it's two property owners, how do we know that they are going to agree after we leave here tonight, after we say yes.

Craig Minor: Then the permit is no good. That is what a condition means. If two owners can't come to an agreement then the pass through has to be sealed off.

Commissioner Fox: I kind of think along Commissioner Claffey's thought. I would like to make sure that there is some kind of agreement between the two property owners before we approve it, or put a time limit. Once we approve it an agreement, hold harmless or other be submitted within ten days to the Town Planner.

Craig Minor: Thirty days would be better, but sure, that would be a good way to do it.

Chairman Aieta: Any other comments?

Commissioner Claffey: There was a motion made and seconded and voted on to move it to Old Business.

Chairman Aieta: We will move it to Old Business. We'll take it up under Old Business.
B. Petition 18-19: Site Plan Modification at 80 Fenn Road, 80 Fenn LLC Owner, Montana Nights, Applicant, Merle McKenzie, 80 Fenn Road, Newington CT, Contact.

Merle McKenzie: Good evening Commissioners, back again. I believe at the last meeting you guys asked for a bit of a better drawing than what I had submitted, so this shows what we are proposing. This is nine feet wide from the building out and twenty-two feet in length. I don't have the name of the structure that we are building, but you wanted a picture of how it would be, so that line in the back here represents the back counter, mounted to the building and also to the beams. Then you see in the front piece a similar counter, and I believe over here there is another one that connects the end.

Chairman Aieta: Could you address the engineering problems?

Craig Minor: We are no further along than we were two weeks ago. The applicant's engineer has not submitted drainage information to the Town Engineer.

Merle McKenzie: I spoke to him today and I can tell you what I know. Obviously it is not going to suffice your needs, but he said he had some back and forth with the Town, and I'm sure that the Town Planner knows, but I didn't see the e-mail.

Craig Minor: No, all I know is that a memo, an actual memo went out from the Town Engineer to your consultant today, but I know from the e-mail that I have seen that there have been communications between your engineer and the town, but the information that the town needs is......

Merle McKenzie: I know that the draft calculations were not, I've been begging him for it and his only answer to me is the engineer is (inaudible). Great, I'm going to go to my second meeting tonight, waste time and.....

Chairman Aieta: The problem we have is that I don't believe that paving that portion, I think it's going to be a problem with the drainage. It's going to permeate certain, it's going to add to how you drain the (inaudible), and we want to see that. I know that when we looked at the original parcel when you came in that there were engineering problems with the drainage. We just want to make sure that, now you are loading another, how many?

Merle McKenzie: So again, being completely ignorant of the process here I had a conversation with him, and it wasn't a very happy one, and he told me that should more drainage be required, more drainage ability be required that it would mean enlarging the drainage storage area and could be potentially, if that is correct, could be potentially saying approval subject to, if you guys come back and say more drainage, that could be taken care of.

Craig Minor: When the Town Engineer feels that there are just a few small issues that haven't been nailed down, we recommend that the Commission approve it, subject to the Town Engineer's satisfaction. There seems to be a wide gap between the information that the Town Engineer has and the information that he needs, to I'm unable to recommend that to the Commission tonight.

Merle McKenzie: What about the other portion, the outdoor structure for the outdoor seating area?

Chairman Aieta: How does that work? Is it all one petition?
Craig Minor: It is, it is all part of one plan. If the Commission has no objection to the patio seating idea, it doesn't impact run off, it doesn't impact parking.

Merle McKenzie: It's known that bars suffer during the summer, people are outside, they go on vacation, they go to the beach, they don't come necessarily, so in our community, in the axe throwing community, there's a dip in business, so we expect less parking issues just because of the summer period of time. What I want to do is just service the customers that we are going to have and give them a reason to be there, so if they want to sit outside in the nice weather they can and it's not like that outdoor patio is going to create a whole bunch of people wanting to be at Montana Nights during the summer but it might prevent a steep drop off.

Chairman Aieta: Let me, I don't think there is a problem, you know, with what you are saying. It's not a big issue, but procedurally wise I see a problem because it is all one big application, unless, how do you do that?

Craig Minor: If all you wanted to do in the first place was to put the dining on the patio, he wouldn't even need to come to you, except for the fact that when you approved his liquor license you specifically approved it with the condition that any change involving the sale of liquor had to come back to you. So that was a kind of a, for that reason, and for only that reason, he is in front of you as far as the patio is concerned. I don't have a problem if the Commission wants to approve the patio with doing it. I don't think that is a violation of your procedures or your regulations.

Commissioner Woods: Could we have this petition, like part A and part B, approve A, meaning the patio and the overhang, and B, when, I think it's a good idea not to approve it until we get the drainage calculations. I think if we do put it as a condition it's going to slow down the process and I think there has to be some incentive to get them, and by not moving forward with that part of it until we get them from him, it might......

Merle McKenzie: That is my next text going out here, but it would be wonderful if I could get the seating area done while we determine what the needs are for the parking spaces.

Commissioner Claffey: Mr. Minor, when we approved the liquor license, is it based on the occupancy, and B, if you add seating outside how does that affect the original occupancy allowance?

Craig Minor: The approval was not based on the occupancy......

Commissioner Claffey: For the liquor license.

Craig Minor: For the liquor license, right. The condition of approval, I don't remember where in the process that showed up, as an early concern or a last minute concern, but it wasn't, but the liquor permit that you issued, the validity of it didn’t hinge on the amount of seating. That was just a condition that you imposed because this was a strange, axe throwing was a kind of an unusual thing, so the Commission was being cautious. That is why you put that condition in.

Commissioner Claffey: Now if it was, when we approved it, did we approve it just for the interior of the building? Maybe it’s ignorance by me but outside, or inside?

Craig Minor: You certainly approved it for liquor inside. At the time that he applied for his liquor license from you there was no mention of anything going on outside because that wasn't a problem.
Merle McKenzie: In regards to occupancy and whether it would increase or decrease, we had this weird thing, and it kind of hurts us when we have live music. Occasionally we have live music there, and they usually function as, hey, I have a following, I can bring you people, that’s why you should pay me. But, you can’t come to Montana Nights and just hang out, we don’t allow it. You have to come to throw axes, so it is inherent in what we do that there is a limited amount of people, no matter what seating we do, so that part of it doesn’t increase the seating.

Commissioner Claffey: And with that said, this is one of my major concerns, and it kind of goes to both sides of our discussion, I think the business is great.

Merle McKenzie: Thank you.

Commissioner Claffey: I just see every night it getting more and more popular which is great on your part but last night you had a huge crowd there. When I say huge, you had cars parked across the street. That’s why it is two separate things, why I want to make sure that if you go to outdoor seating it doesn’t hurt you for the second part, and how it affects his permit for liquor that we approved.

Merle McKenzie: Again, the only thing I can refer back to is regardless of the size of our event, you cannot exceed the amount of lanes we have throwing. We are rated by the town at I think 301, I think, I’ve never had a total count on it, but I had people come in for one group and other people leaving, we’ve probably seen something like 150 people in the building. We are rated for 301, twenty some odd seats outside, where you can’t come and sit unless you have already paid, should not increase, and what was the second item that you had a question on, because I had an answer, or a response to it. You had a second piece to that.

Commissioner Claffey: The second piece was if with this being two parts here, with the outdoor seating, does it, does that then garnish the ability of the business owner to come in and (inaudible).

Merle McKenzie: Oh no, I remember what you asked, when I first applied for an alcohol permit, it was mid-summer or late spring, and I knew that there was no way I was going to have the funds and the plans to do the outdoor portion, and when I went to the State they said, oh, you didn’t fill in the outdoor portion of your application so you can have this. I said, yeah, I’ll do it in the spring when we have plans for it and I have money left to do it, so that is the only reason I didn’t ask for it up front when I came before the Commission. I didn’t foresee a time in the near future where I could…..

Commissioner Claffey: That is what would garnish my question of, if you do outdoor seating as allowed, does it hinder the occupancy, add to it, I know we have had this from other establishments that have had outdoor seating, where with outdoor seating you can have this number of people, with indoor seating, you can move furniture, and all that. That is the only reason I asked, it’s a minor point, but ……

Chairman Aieta: What kind of a thing did you have where you had to park across the street?

Merle McKenzie: A large corporate event. There was actually two. It was two companies that had forty to fifty people per group come in, plus normal business.

Chairman Aieta: I thought you said they could only come if they threw the axes.

Merle McKenzie: They did, they all threw the axes.
Commissioner Claffey: My point of seeing more vehicles, it wasn’t too the point, I want to make this clear, what I saw, just driving home, I live down that way. It wasn’t like people were stumbling across the road, or walking, I’ve never seen a problem after or during while I am driving by, it just happened that I was driving later at night, and I see it differently than maybe our ZEO who drives around during the day. I’ve never seen people, trash left, anything like that. It’s not a disturbance to my community on that side of town.

Merle McKenzie: To Commissioner Claffey’s point, it does get pretty busy there, especially on a Saturday night, which is why, the second part of this thing which I know we’re not going to settle tonight, asking for increased parking to address that. Aside from the need which the success of the business has generated, the outdoor seating itself is not going to contribute to overcrowding because you still have a certain amount of lanes, and once they are there, you just, there is no other place to throw.

Chairman Aieta: What does the Commission want to do?

Commissioner Pane: I have a few questions. You showed the structure, is there a roof on that, or it just.....

Merle McKenzie: There is a roof. He didn’t include it because they are not going to be part of the group, I hired a different guy to put sheet metal roofing on it.

Commissioner Pane: Okay, and then it didn’t show any protective bollards around the outside of it. I want to make sure that we don’t have a runaway car in the parking lot, so we need to have those around there.

Merle McKenzie: Without a doubt.

Commissioner Pane: Then I think we just have to make sure that you have language in there when it comes back for the second part if you are going to do it, because we would not not want him to have the parking after the fact, and I think he needs the parking.

Merle McKenzie: I need the parking.

Commissioner Pane: I don’t think he will object to that because he needs the parking anyway so I don’t have a problem with approving this in two sections, A and B. or something.

Merle McKenzie: I’d like to get the signoff on the seating portion of this, and I realize.....

Commissioner Woods: Mr. Chairman, we keep referring to seating. Is there seating because you plan doesn’t show any chairs.

Merle McKenzie: There will be bar stools

Commissioner Pane: Ten on each side?

Merle McKenzie: Yes.

Craig Minor: You need to leave that with me tonight.

Commissioner Sobieski moved to close the hearing and move it to Old Business for tonight. The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with seven voting YEA.
C. Newington Ridge Preserve

Craig Minor: I put this on the agenda when I did the agenda last week, as I do for every meeting, but then a few days later I got a letter from the president of the homeowners association asking that the Commission take action and call the bond. I forwarded the letter to the Commissioners and made a copy of it in your packet, and if the Commission does want to call the bond, and get started on it, I have a draft motion for the Commission's use, just short and sweet just to notify the developer that according to the agreement that it is your intent to finish the work using the performance bond, funds that are on file with the Town.

Chairman Aieta: I'll open it up to the Commission to discuss this.

Commissioner Claffey: My question, which has been from the start, did we get any of the test results back from all the work that was supposed to be done, and there was communication between our engineer from the Town about borings, has that come back final.....

Craig Minor: We have only had information to indicate that the work was not correct and below standard?

Commissioner Claffey: And that was from who?

Craig Minor: From the paving company that was hired by the developer.

Commissioner Claffey: So they submitted documentation that the tests, all of the things that our engineer would sign off on.

Craig Minor: They submitted documentation showing that the road is substandard.

Commissioner Pane: I question whether or not you are saying that the whole road is substandard, I don't believe that.

Craig Minor: That's correct, I don't know how much is not, but certainly the part that was lacking is.....

Commissioner Claffey: Any of those reports given to us, because I have asked for them repeatedly.

Craig Minor: You were given what you have always had which is that the road, the work that was done was not acceptable to the town engineer. You can always ask for three more decimal points, but there is sufficient information on file to indicate that the road was done incorrectly. If the Commission would like copies of that, I can send that to you.

Commissioner Woods: I don't have a problem, I just want to make sure, that it is our responsibility to be sure that it is done, but not actually do the work.

Craig Minor: That is the way that the agreement was written so that is why I used that language. That is the exact language. If you vote the motion, you are indicating to the developer that it is your intent to complete the project, and it is your intent. You gentlemen are not going to do it, because you are here twice a month, but the Town will do what they need to do to complete the project.

Commissioner Pane: I think that the developer needs a little bit of time to straighten out the (inaudible) problem because I think he is having problems getting his approval from Wetlands and
if I remember correctly, when he came in last time, he had to redo his application because it’s not just the contractor, but it is also the Association, so we’ll move forward, the Association and the contractor have to apply to Wetlands and get in front of them to get approval because the Association owns some of it, and he owns some of it, so I believe since we have the contractor redo his application previously that he has to follow that same procedure and I believe he sent an e-mail to the Planner that he is acquiring a lawyer and trying to straighten out some problems with the Wetlands Commission.

Craig Minor: That is an important problem for him, for other issues that he has with the site, but that is not relevant to the road, because we can finish the road without violating any of his Wetland.....

Commissioner Pane: It’s extremely relevant because he has no, if he doesn’t get the wetlands done, he can’t build any houses and he can’t finish what he is doing so it is really a big part of it.

Craig Minor: Financially.

Commissioner Pane: Oh yes, and that is basically what it is. I believe he said he was coming back to do some additional work. I just think it is premature, I know he has had difficulties with the Wetlands Commission, and so I think we have to give him a little time for that, and I would want the Town Attorney here to advise us.

Commissioner Claffey: I agree.

Commissioner Fox: I’m having a little bit of a hard time following Commissioner Pane and Commissioner Claffey’s comments. The Inland Wetlands approval aside, I think this developer, this Mr. Massimino has a lot more problems than trying to get approval from the Inland Wetlands Commission. He’s not going to be able to build any houses there, number one, I don’t think he has a license. He has, the second binder course that has been put down, and that is failing, I know that it is failing in at least two places, I’ve seen it. Any time he goes down there it seems as if the development looks worse than it did before and so I know it’s not a public road, it’s between the contractor and the homeowners association, but this has been going on for a long time. As a matter of fact, the first time I was on this Commission, which ended in 2008 is when this was first approved under a different developer, and different parties altogether. All the talk that we are doing here is only going to postpone and force these people to endure a lot more hardship and they didn’t sign up for this. I think we have to do something, might have to talk to Attorney Ancona again, but these people deserve some relief.

Craig Minor: Can I correct something for Commissioner Woods, you are right, it should say the Town of Newington because that is what the agreement says, provided the Town of Newington because that is what the agreement says, provided the Town of Newington supplies written notice of its intent. It should be the Town of Newington, not TPZ. You are right.

Commissioner Woods: On page one of this agreement, “to complete all work outlined in Paragraph 1 to the satisfaction of the Town of Newington by May 15, 2017.” It’s slightly shy of two years.

Chairman Aieta: I’m going to allow the vice-chairman of the Association to come up and give her take and how they want to accomplish, so that we have an idea because this is a very complicated, this is not a straightforward bond issue that we have.
Janet Chernakov, 4 Deming Farm Drive: Hopefully I can make it easier for you. Gentlemen, I have worked with you now for almost two years and I am going to ask you to please listen to me, what I’m saying tonight, it’s very important.

I am speaking tonight as the Vice-President of the Newington Ridge Preserve Condo Association, our homeowners association as we call it here. The e-mail from Cheryl Rocco, our president, was sent to the Town Planner on Monday and forwarded to the Commissioners requesting that the performance bond that the Town has been holding be called due to the lack of performance by our developer. In our opinion this bond should have been called on May 15, 2017, almost two years ago when it was realized that the developer had ceased building or developing this property. I am here tonight to tell you that we expect the TPZ to act correctly and pull the bond.

On February 13, 2019 at the meeting Mr. Massimino came before this Commission as you requested him to do. Prior to that meeting he had requested a bond reduction upon which we wrote you a detailed letter explaining why the HOA did not believe that he deserved this money. The Town Engineer also sent you an opinion letter stating that the Town not release any funds until the road had been approved. After Mr. Massimino saw our letter he pulled his request for the bond reduction. Per the instructions of this Commission the board met with Mr. Massimino, our board, met with Mr. Massimino in mid-March to come up with a plan to resolve our recurring issues. We went over each and every item on the objection letter and a few others that concerned us. On March 28th, an e-mail from the HOA president was sent to the Town Planner as well as Mr. Massimino documenting what was discussed at our meeting. Beside the items listed on our objection letter Mr. Massimino agreed to remove the sale signs facing Griswoldville Avenue, deal with erosion prevention, and have Michael Bennett draw a new site plan showing drainage behind lots one and two and two retaining walls behind lot one. Mr. Massimino asked the board for thirty to forty-five days to complete, if not making significant progress, on each item discussed. The forty-five day period expired on April 28th. I am here tonight to report that nothing was accomplished. Not even one rock was removed from our site. Nor from the date of the meeting did Mr. Massimino ever contact the board regarding this work, or should I say, lack of work.

This is the third time that the Commission requested that the board meet with the developer and this is our result. I have spent a lot of time going through old minutes and I would like to address some concerns I found by some of the Commissioners.

Commissioner Pane, on February 13th, you asked Mr. Massimino, if after he meets with the Association that the plan on file and the modified plan totaled certain things, and get the wetlands thing taken care of. Mr. Massimino responding yes. I spoke to Michael Bennett two days ago. Mr. Bennett is the person that Mr. Massimino said he would be working with for the modified site plan. Mr. Bennett informed me that Mr. Massimino had not hired him to do any additional work regarding Newington Ridge Preserve. Yesterday I spoke with Eric Hinckley, the town wetlands agent. He informed me that the Wetlands Commission has had no contact with Mr. Massimino. It is the Wetlands Commission that is responsible for granting Mr. Massimino the remaining permits on which to build homes.

In February of 2018, Wetlands requested additional information based on a report that from Mr. Logan, who works for Rema Ecological Services. Mr. Logan would not send the information because of an outstanding invoice. At a later meeting, a TPZ meeting, Mr. Massimino acknowledged this to be true. I would like to read to you an e-mail sent to Mr. Hinckley from George Logan, obtained by a Freedom of Information Act. It’s from Rema @AOL.com, sent Sunday March 11, 2018. To: Erick Hinckley, Subject: Regarding Newington Ridge Site. "Eric, has the Commission or the Town made any decisions in regard to their disposition towards the applicant/property owner? We are owed $3,564.00 most of it over 200 days overdue. I need
to know so that I can take appropriate action which may include legal. I have only a few weeks to put forth a lien on the property, after which my legal window closes. I hope that the Town takes appropriate action as well, Best, George T. Logan, Rema Ecological Services, LLC."

Commissioners, you all appear to be intelligent men, so I am asking you, if Mr. Massimino had the money to remove dirt and attempt to fix our road, wouldn’t you think, if he really wanted to build the remaining four lots, he would have paid Mr. Logan the $3,564.00 plus now possible interest, to gain access to the information that the Wetlands Commission wanted so he could obtain his permits. Think about that.

Commissioner Woods, in previous minutes you said you feel for us, for what we are going through. You were concerned also that the developer was having financial issues. I gathered that you may have felt that he deserved additional consideration. Is that correct?

Commissioner Woods: It was.

Janet Chernakov: Right, so I wanted to state that there are multiple liens on the remaining undeveloped lots. Several of these liens are for the Town of Newington. I learned today when I was in the Town Clerk’s office that on April 26th, a new judgment for approximately $80,000 resulted in a new lien against the properties that are remaining that Mr. Massimino owns. To me, on top of the existing liens, that means less profits for anything that Mr. Massimino chooses to develop. Also even without sufficient funds, to do everything on the list, and I’m talking about the list that was our objection list, Mr. Massimino himself, or his brother Anthony could have fixed the orange fencing around the open lot which he said he would do immediately in March, and remove the Sale sign, which he told the board he needs to make us happy, before he can sell any additional homes. What he neglected to mention that I would think, before he could build the homes he would need a valid new home contractor’s license which, according to the Department of Consumer Protection that I checked today, there is still suspended under the name of Mass Construction. So before you give him another opportunity I would like to know if he has a valid home contractor’s new home contractor’s license to build these homes, and if so, under what name, because when I tried under Massimino I did not come up with a valid license.

Commissioner Claffey, you asked if the Town had ever received testing on the road from Mr. Massimino. The Town Engineer is still waiting for information from Mr. Massimino that he said he would send. As of this morning, according to the Town Engineer, he has not received it.

So, in summary, the HOA has paid to have the road swept from all of the debris that was left over from the winter with the road crumbling, the brand new road. We have had, had the road been completed by the drop dead dateline, agreed upon by the builder, of September 28th, and I want to refer to the August 22nd, page three and four, if he had agreed to, this is what he agreed to, this is the drop dead date line, according to the Town Attorney if he hadn’t completed the road by the 28th, then it was automatic that the bond would be pulled. Please check your minutes.

If he had put in the road by September 28th, we wouldn’t have had all of the rain, maybe the road wouldn’t have been perfect, but it certainly would have been better than doing it in the middle of December, to the end of December. And, when the Town Engineer was here for your meeting, not one of you requested, he sat through the whole meeting and not one of you asked him a question. The question I would have liked you to ask, if he has it on record as one of the reports, that I believe, and I have to double check which company it was, said don’t do it. It’s too cold to do the road.
So, now the HOA is paying to correct the (inaudible) that occurred where they backfilled the curb with rocks and gravel. That should have been the developer's responsibility, but the TPZ allowed the developer to dig and pave the road in late December, the HOA will now be incurring additional unexpected costs required to remove two piles, two huge piles, one of processed and one of gravel and dirt. I called a contractor, he said, if I could get anybody to take this, one being processed and not the best process, and the other being again, gravel mixed with dirt, from the side of Lot one, it would cost anywhere from one to two thousand dollars, if I had a spot for it.

So I'm asking the Town, or anybody if they know of anybody who wants this. The rock plunge pool next to Lot ten had to be reinforced by additional rock. The owner took it upon himself to do this because there was so much erosion. The amount of land between the plunge pool and the house has deteriorated. Now, I would imagine if they were to get a c.o. now, they probably would not have been able to get it because it is too close, but I don't know all of the rules and regulations and I would love anybody to come out and see for themselves.

Our road has not met Town approval. There is no modified site plan as promised by the developer, Lots one and two still deal with the flooding issues, the dirt behind Lot one which Mr. Massimino was to remove before the road was done still remains. The open foundation is being used as a dumping ground for building materials not being used because there is no building. It would only be a minor labor charge for Mr. Massimino to incur as he said, he would put these materials into the empty house next door. He said that, and he has not done anything.

I could go on longer with everything but let it be known that the homeowners of Newington Ridge Preserve are saying, enough is enough! We expect the TPZ to pull the bond and let us make our development a place that is worthy of the taxes that we are paying. I thank you for your time and consideration and I would love it if you would have any questions.

Chairman Aieta: I have a question. If we pull the bond, what does the Homeowners Association want to do? Do you want to do the work.....

Janet Chernakov: This is how it was explained to me. This is how the lawyer explained it back in September.

Chairman Aieta: Whose's this? Ben?

Janet Chernakov: Yes, he was at the meeting and again at a meeting a year ago in March. I have spoken to him numerous times about how this would be handled. It is my understanding that the Town has the agreement with Michael Massimino or whatever company under that, Griwsold Farms, I don't remember.

The town held that money because the previous developer had gone bankrupt and in order to assure that things got done correctly the Town had that money should the current developer not do it.

Chairman Aieta: I understand all of that. What does the Association want to do?

Janet Chernakov: It is my understanding that we will work with the Town, Craig has said that the Town would hold the money, and we would then bid out certain jobs, primarily our road, and behind Lots one and two, which are the serious problems. That would go first. We would deal with the Town, we would be more than willing to get quotes, obviously if there was an engineering question we would expect the Town Engineer to answer our questions, such as, for the road, we would have to hire a professional contractor, we would then expect the Town, we would have our
bids, if the Town wanted to review it with us, we would be more than happy. After the proposals were submitted, we would decide who we wanted to go with, get our references, go to the Town, expect the Town to give us the money if we needed a down payment, have the work done, show the invoice to the Town that yes, we had this done, and expect them to cut us the check for payment directly, I don’t know how the Town works on that. That’s how I was told, that is what you told me Craig.

Craig Minor: There are dozens of different ways that this could be done.

Janet Chernakov: The last conversation that we had, like a couple of weeks ago, that’s what you had told us.

Craig Minor: That scenario works.

Janet Chernakov: Okay, so I would be more than willing, or the board would be willing to talk to the Town so that is the way to do that. Do I think there is enough money to have everything done? No.

Chairman Aieta: There are some legal questions here. If there is not enough money who is responsible for the deficiencies that are not covered by the bond? The Town of Newington? The Association? Who?

Craig Minor: What I would recommend is that, and I think there is enough money to fix the road, I would recommend......

Chairman Aieta: There might be enough money to fix the road, but to complete all of the deficiencies, there isn’t enough money.

Craig Minor: I think there is, but if there isn’t, do what is most important first, and leave things like the gazebo, street lights, leave things that are less important than the road itself......

Janet Chernakov: We are hopeful that if the project was ever sold, then that person would be handling it. I mean, if there is a developer who is going to buy it, do you think he really cares if he has to put in another street light?

Chairman Aieta: I think we need advice from the attorney as to how it would work. I’m not opposed to pulling the bond.....

Janet Chernakov: I’m sorry, I didn’t hear you.

Chairman Aieta: I’m not opposed to pulling the bond, based on the information, what you just said, okay, this has gone on two years longer than it is supposed to. We made commitments, we’ve made promises, no one is keeping the promises, we’re getting all kinds of conflicting stuff, the developer obviously is not going to go in and do anything, so it’s time to fish or cut bait, one or the other. We have to pull the bond, but I want to make sure that it’s done in the right way, and I don’t want the Town of Newington on the hook for items that are not covered by the bond. I think we need legal advice as to how, what procedure we follow to pull the bond.

Janet Chernakov: Can I say something? This has been going on for two years, since a year ago March was when it first came up, nobody knew how to answer this question then and obviously there hasn’t been anything hard lined as how it should work now. Everybody had hoped that the developer would do what he was supposed to do.
Chairman Aieta: Obviously he isn’t going to and now we have to decide between the Homeowners Association and the Town of Newington as to where this thing falls.

Craig Minor: You don’t have to. When I was in Cromwell, I had a couple of situations where we came close to calling the bond on a developer and there were no home owners involved, it was just between the town and the developer, and so the Town, the (inaudible) Department and the Planning Department, we went out to bid, hired a developer. At that point the developer came around and finished the work and we didn’t have to go through the process, but we also didn’t have a home owners situation. In fact, that makes it incredibly more complicated. I would suggest don’t even bother the home owners association, just call the bond and have the staff get it done. It really is that simple.

Commissioner Pane: I don’t think the Town should be doing the work.

Craig Minor: Oh, we would hire a contractor to do the work. We would oversee it. That’s why we have bonds.

Commissioner Fox: If we hired a contractor, would we not be liable?

Craig Minor: Liable for what?

Commissioner Fox: Whatever.

Craig Minor: I can’t answer your question until I know, liable for what?

Commissioner Fox: I definitely want to pull the bond, but I really, like the Chairman, I do not want to see the Town liable for anything. Now can we pull the bond, hold it, and as the home owners association gets things done, write them checks.

Chairman Aieta: That’s one way to do it. The other way is that the Town does it. Normally they would not, the normal bond would not include the homeowners association as a third party. It is between the bond, the Town of Newington and the developer whoever put the bond money up.

Commissioner Sobieski: I think the bond should be pulled, but I have a couple of questions. Number one, I’d like to see some kind of formal agreement between the Town and the homeowners association once this is done so the Town doesn’t have any liability.

Janet Chernakov: This is more than just the road. The road is just the road.

Commissioner Sobieski: The road is where I started. The drainage behind Lots one and two and where the sedimentation pool, where it is starting to erode, that has to be created, fixed and put back to where it belongs. I’d like to get something, to make sure that the town, if they do oversee the project put it out to bid and get some type of agreement. That would require an attorney on your part. The other part that I’m not really sure about is I think our Town Attorney needs to weigh in on it, is how it is done. I don’t know, I’m not an attorney. My concern here would be is, if we release the bond, what about the work that Mr. Massimino has done on the road, putting the binder course down.

Janet Chernakov: It was my understanding again, the last time that we went through this in March, that whatever was left over after the items were completed, Mr. Massimino was entitled to. So if there is any money after the road is fixed and everything else on that list, on the bond that needs to get done, he is entitled to any of the money.
Commissioner Sobieski: Then let me ask you a question. Suppose there isn’t enough money to remove the material, the stockpile. The homeowners association is going to have to come up with that?

Janet Chernakov: We will discuss priorities. We do safety first.

Commissioner Sobieski: I fully understand that, all I saying is if you don’t have enough money to, let’s assume that you exhaust all the money that is in the bond, how do you go about getting the rest of the items straightened out. That’s what I’m asking.

Janet Chernakov: Hopefully we would, with the Town, set our priorities.

Chairman Aieta: You aren’t answering the question. The question is, if you have a deficiency who’s going to be responsible.

Janet Chernakov: The homeowners will not be responsible.

Chairman Aieta: Are you saying the Town of Newington?

Janet Chernakov: For everything on that list?

Chairman Aieta: Yes.

Janet Chernakov: We’re not responsible for wetlands, we’re not contractors.

Chairman Aieta: I understand that, but that’s the rub here, is that this Commission does not want to put the Town of Newington in jeopardy of having to pay for items beyond the scope of the bond.

Janet Chernakov: Gentlemen, this Town held the money for two years. We could have gotten a lot more done in two years, those piles that now will cost us two thousand dollars would never have been there. Doesn’t the Town have some responsibility? Yes. Will we require the Town, once the road is done that they are responsible for the road from that day on? Absolutely not. Did they fix the drainage. After the drainage is done, the drainage is done.

Chairman Aieta: You still are not answering the question. We know that the question is, is the home owners association going to put the Town of Newington in a position of having to pay for items that are not covered by the bond because there is not enough money. That is the question.

Janet Chernakov: Okay, so my question is…..

Chairman Aieta: I don’t want a question, I want an answer.

Janet Chernakov: I have my notes on this, I’ll preference it that way. I think we need to see how much, I have no idea how much it is going to cost to fix the road, I have some estimates about what it could possibly cost, for the drainage. There is definitely enough money in there. As far as, do we as far as things we would like to have done and there is no money, we will pay for it. Will we be responsible for fixing everything in wetlands that Michael hasn’t done? Absolutely not.

Commissioner Pane: The wetlands, it’s got to be resolved, that is behind the two houses there, so that has to be resolved.
Janet Chernakov: That's a different wetlands. I'm talking about the wetlands that according to George Logan Michael waited too long and now it opens up and has to be done. I guess where the house was, the little red house that was there at one time.

Commissioner Pane: I don't know about that.

Janet Chernakov: That's what I'm talking about.

Commissioner Pane: I think it would be prudent of this Commission to have the Town Attorney and we definitely need legal counsel here at the next meeting so that we can resolve it. I would ask that we have our legal counsel, and our Town Engineer and Wetlands here so that we can have all of our questions answered and the Town Attorney probably should give us some things in advance for the Commissioners so that we can read it before the meeting so if we have questions we can ask it at the meeting so that we can resolve this for the home owners as fast as possible.

Janet Chernakov: At our March meeting, or another conversation that I had with the Town Attorney, it was his preference that the Town give us the money in total and say, good-bye, and wash their hands of it. That was the last time that I spoke with him.

Commissioner Fox: On page 25 of the minutes of March 14th, Attorney Ancona said just that, and that is what I was talking about before. Like Commissioner Pane, I think we do need the Town Attorney's advice and right away, like yesterday and get back to us yesterday so if we need a special meeting or not, and decide what to do. I would like to have the bond pulled and have the Town Attorney do research and then tell us what to do, and any solutions or any consequences that would happen.

Chairman Aieta: Let me ask a question, if we did that, if we made a motion to pull the bond, could we do what he just said?

Craig Minor: I think, under the agreement the Town has to notify the developer of it's intention to do this thirty days before you actually do anything. So you can vote tonight to advise the developer that it is your intent to complete the project......

Janet Chernakov: That has already been done.

Craig Minor: It was done so long ago......

Janet Chernakov: It is valid and if you read the minutes from the September, here, I'll read it to you.

Craig Minor: No, please don't.

Janet Chernakov: Okay.

Craig Minor: I recommend that the Town reaffirm it, but in the meantime, have the Town Attorney come to your next meeting, have the Town Engineer come to your next meeting, answer the questions that you have, but in the mean time, you have started the clock, the thirty day clock ticking which I really think we need to redo that because it was done so long ago......

Janet Chernakov: I think that needs to be done by the Town Attorney. As far as I'm concerned, the Town Attorney has said on numerous occasions, he has until the 28th of September and if he hadn't done it by the 28th of September, he was done.
Commissioner Woods: This starts the process, and I believe that all this is doing is putting the developer on notice that it is the intent of the Town to take this action, so I would think that you will either see Mr. Massimino or his attorney once this goes out, just to start the process, because the process is not going to go as quickly as you might like.

Janet Chernakov: Okay, so I’m going to ask of you, speak to the Town Attorney before you decide this, because according to the Town Attorney, on a recent conversation, not that recent, he had said that the Town has done everything that they are required to do, and the question was, whether this committee automatically calls the bond, or they have to vote to call the bond. So before you decide that you have to give him thirty days notice, I wish that you would speak to the Town Attorney first. As a tax payer, I wish you would speak to the Town Attorney first.

Commissioner Woods: Again, I think that is where this goes now. Once we take this action, it goes right to the Town Attorney. It’s out of our hands, it becomes between him and the Town Manager and the decision made by this Commission on some sort of action on the property, that will go back to the legal part of it. We are done, we’re out of it, I believe.

Janet Chernakov: Correct.

Commissioner Camillo: Have you contacted the bank, they own some of the property in your Association.

Janet Chernakov: They own his lots, the home owners.....

Commissioner Camillo: Their property is in all of that, the road, they may have a little more leverage too.

Commissioner Pane: I think we would have a lot of our questions answered if we just got legal council here at the next meeting so that we could see what the best option would be.

Chairman Aieta: We are going to have the Town Attorney here, the Town Engineer is going to be here, who else do you want?

Commissioner Pane: Wetlands?

Chairman Aieta: The Chairman of the Wetlands Commission will be here too. I’ll make a motion to pull the bond.

The motion was seconded by Commissioner Sobieski.

Craig Minor: There is a motion in the folder.

Commissioner Woods: We need to change the wording.

Commissioner Claffey: I have to make sure that I read it right so that no one will yell at me.
Commissioner Claffey moved to notify Griswold Farms LLC of the Town of Newington’s intent to complete the improvements shown on the site development plan for 119 Deming Street, which plan is entitled “Deming Street Active Adult Community #119 Deming Street Newington, Connecticut Prepared for Deming Street Associates December 05, 2008” approved by TPZ on November 18, 2009 as amended. This notice is in accordance with Paragraph 4 of the Performance Bond Agreement executed by Griswold Farms LLC on March 26, 2015.

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

Chairman Aieta: It is the unanimous decision of the TPZ to start procedures to pull the bond. We will have the Town Attorney present at the next meeting, and I suggest that you be here for that.

Janet Chernakov: Definitely. I have a question, I’m a little confused. Did you do anything different tonight than you did in March?

Chairman Aieta: Yes, we’re pulling the bond.

Janet Chernakov: Okay, I couldn’t tell from the wording of that that is what it was.

Chairman Aieta: Mr. Planner, what did we just do?

Craig Minor: The Commission may have reaffirmed a statement that they made previously, but tonight it voted to notify the developer that it is the Town’s intent to complete the project.

Janet Chernakov: Oh, thank you.

Commissioner Claffey: Using the performance bond funds, that started the action.

Chairman Aieta: Now there is a whole bunch of things that happen from this point on, legal stuff that we will not be involved in, it will be between the Town Attorney and the developer.

Janet Chernakov: I will be here at the next meeting.

Chairman Aieta: Okay.

Do you want to give an update, a run down of what happened at this meeting to the Town Attorney and the Wetlands Commission Chairman and the Town Engineer.

Janet Chernakov: Thank you gentlemen.

Chairman Aieta: You’re welcome.

IX. OLD BUSINESS

A. Petition 03-19: Zoning Text Amendment (Section 3.11, Section 3.17 and Section 6.11: Motor Vehicle Service Uses, Town Plan and Zoning Commission, Applicant.
Chairman Aieta: Do you have a motion?

Craig Minor: No I don’t because I recommended that the Commission do a straw poll about how the Commissioners feel about the hundred foot buffer as opposed to fifty, because if the majority of the Commission feels fifty feet is sufficient, then we need to start over.

Chairman Aieta: Mr. Chairman, I’m going to recuse myself for the reasons stated earlier, but I would object, I notice that there is a lot of input from the Planner on different buffers in the regulations, so if there is a conversation about buffers I would object to not being a part of that.

Commissioner Braverman was seated for Commissioner Pane.

Craig Minor: That is all information from the regulations, there is nothing new or nothing that I was privy to so I don’t think it is a procedural error for me to give the Commissioners excerpts from the Zoning Regulations.

Chairman Aieta: I am going to take a straw poll as to the distance. I need to know from you if you want to go to fifty feet or one hundred feet for the distance requirement.

Commissioner Fox: 100 feet
Commissioner Sobieski: 100 feet
Commissioner Woods: 50
Commissioner Claffey: 50
Commissioner Camillo: 50
Commissioner Braverman: 100
Chairman Aieta: 100

Chairman Aieta: What is it now?

Craig Minor: The other issue is the garage door issue.

Chairman Aieta: Garage door facing the street?

Craig Minor: A prohibition or no prohibition?

Commissioner Fox: No prohibition
Commissioner Sobieski: No prohibition
Commissioner Woods: No prohibition
Commissioner Camillo: No prohibition
Commissioner Braverman: No prohibition

Commissioner Claffey: No prohibition to what?

Craig Minor: The amendment as published prohibits new garage doors from facing the street. If the Commission ends up adopting a regulation that allows garage doors to face the street, an argument could be made that the conclusion should have known that that was what the Commission was going to do, because that is less protection for them. If that is what the Commission ends up going with, that is a procedural error that the public wasn’t told, the argument can be made that the public wasn’t warned that the Commission might adopt a regulation that was more favorable, that allows garage doors facing the street.

Commissioner Claffey: My only concern with that is if you don’t allow the public to come before us, then you are Xing them out even though all the residents in town have the right to know that it
has changed. So saying, you can change it now and if you don’t notify them of a procedural change, then to me you are not following the proper procedure.

Commissioner Claffey: Start the process over with the garage door………

Chairman Aieta: So we will have to put it back on, notify CCROG…..

Craig Minor: I already sent it to CRCOG so we can actually start the hearing at the next meeting.

Chairman Aieta: Any questions on that from the Commissioners? We are going to start it all over at the next meeting and the reason for that, the garage doors, you are allowing them to face the street. Now they can’t face the street, you guys are saying they can face the street.

Commissioner Claffey: But those are two separate distances. That door roll up is a specific distance also. Is there still a roll up distance, separately?

Chairman Aieta: No, under the hundred feet distance between the residence zone and an auto use……

Commissioner Claffey: So, in this memorandum, number two is really two items in one Mr. Planner.

Craig Minor: Yes.

Commissioner Claffey: Then there is a problem, what are we answering, are we answering the distance, or the roll up doors?

Craig Minor: You have both, the first one was the distance……

Commissioner Claffey: You can’t combine the two.

Craig Minor: What’s that?

Commissioner Claffey: With you combining it, you have two separate things. You are asking to answer both questions.

Chairman Aieta: We already did. We just did, I asked the question, do you want the distance requirement to be fifty feet or one hundred feet? Now I’m asking, do you want to allow the door to face the street, or not, and you all agreed to allow them to face the street.

Commissioner Woods: This is the question about the prohibition on roll up doors, we all said we want them to face the street. That was talking about the fifty foot or one hundred foot buffer, two different questions. The Chairman asked two separate questions.

Commissioner Claffey: You see it that way Commissioner Woods, I don’t. I don’t see splitting the two, and I think that is a big item to be split, because there is a big difference between a buffer and a roll up door for a development. You guys are just giving carte blanche, let it go. I don’t think an attorney would see it that way. Two specifically separate things in your memorandum.

Chairman Aieta: And we had two separate votes. We just voted on two separate items, one for the buffer and one for the garage doors. This gives me an understanding of the desire of the Commission.
Commissioner Claffey: The buffer, because your buffer would fall within those set-backs.

Chairman Aieta: What does the buffer have to do with the garage doors facing the street.

Commissioner Claffey: That's what I'm trying to figure out.

Craig Minor: Those were the, they are in one paragraph in my memo because those are the two issues, which have nothing to do with each other, but those are the two issues that we have been warned that if we don't follow with what was published, it's considered a procedural error. Both of them would be procedural errors if the Commission adopted what was not consistent with what was originally published. Either of them would become a procedural error if the Commission went differently from what was published originally. What the Commission decided was that they are going to stay with the hundred foot buffer, so that is good as far as not creating trouble for the Commission, but the Commissioners on the other hand, decided that they did not want to invoke a prohibition on garage doors, and because of that, we need to rehear that.

Commissioner Claffey: There was a consensus here of a hundred feet which......

Chairman Aieta: Are you all set on that? You are going to start again.

Craig Minor: Yes.

Commissioner Pane returned to the table, and Commissioner Braverman returned to the alternate position.

B. Petition 15-19 Special Permit (Section 3.15.3 Restaurant Outside Seating at 2381 Berlin Turnpike (Artichoke Basille's Pizza) JGF Holding Company, Owner, Matt Rusconi, 196 W. Main Street #16 Avon CT, Applicant/Contact.

Chairman Aieta: Do you have a draft motion prepared for this?

Craig Minor: It's in the folder, but I forgot to include with the conditions the one that I suggested that you allow three seats for now, so when you read the motion, that can be a condition.

Commissioner Claffey: Three seats, or three tables?

Craig Minor: I'm sorry, three tables.

Chairman Aieta: Why would you do that?

Craig Minor: I'm just suggesting it, if the Commission is concerned that five tables will result in a lot of additional parking. I recommend three tables and then after ninety days they can come back and ask for permission to add the other two tables. Just throwing that out as an option.

Chairman Aieta: I don't think that is necessary. Five tables, twenty people, that won't result in....

Commissioner Pane: Mr. Chairman, for security reasons we should make sure we have bollards to protect the public and it should be incorporated with the fencing that they go with, and they should be matching. In other words, if they have black fencing, they should put black bollards, with some landscaping.
Petition 15-19: Special Permit (Section 3.15.3: Restaurant Outside Seating) 2391 Berlin Turnpike (Artichoke Basille's Pizza) JGF Holding Company, owner, Matt Rusconi, 195 W. Main Street #16, Avon CT applicant/contact

Commissioner Claffey moved to approve with conditions, Petition 15-19 Special Permit (Section 3.15.3: Restaurant Outside Seating) 2391 Berlin Turnpike (Artichoke Basille's Pizza) JGF Holding Company, owner, Matt Rusconi, 195 W. Main Street #16, Avon CT applicant/contact

Conditions:

1. Bollards around seating area to (inaudible)

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

Craig Minor: This is the same, except this is for the site plan modification. If you look at the monitor, I have an excerpt from the site plan, showing where the seating will be.

Commissioner Fox: Is this the driveway?

Chairman Aieta: No, this has to do with the seating.

Commissioner Woods: So the first one was just to allow the seating, this one is now modifying the site plan.

Craig Minor: Yes.

C. Petition 16-19: Site Plan Modification at 2391 Berlin Turnpike (Artichoke Basille's Pizza) JGF Holding Company, Owner, Matt Rusconi, 196 W. Main Street #16 Avon CT, Applicant/Contact.

Commissioner Claffey moved to approve 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 Avon CT, applicant/contact.

No conditions.

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

D. Petition 17-19: Site Plan Modification at 262 Brockett Street, JFG Holding Company LLC, Owner/applicant; John Formato, 798 Southington Road, Berlin CT, Contact.

Chairman Aieta: This is concerning the pass through.

Craig Minor: Yes, with conditions.

Commissioner Claffey: Do you want that read in?

Chairman Aieta: We'll have a roll call vote.
Petition 17-19
Site Plan Modification at 262 Brockett Street
JFG Holding Company LLC, owner/applicant
John Formato, 798 Southington Road, Berlin CT, contact.

Commissioner Claffey moved to approve, with conditions, Petition 17-19: Site Plan Modification at 262 Brockett Street, JFG Holding Company LLC, owner/applicant; John Formato, 798 Southington Road, Berlin CT, contact.

Conditions

1. The plans shall be revised to remove the obstructed parking space adjacent to the relocated dumpster pad.

The motion was seconded by Commissioner Sobieski.

Chairman Aieta: We will take a roll call vote, I will vote last, and I’m not in favor of this approval.

The motion was defeated as a result of a roll call vote, with three voting YEA and four opposed (Pane, Fox, Claffey, Aieta)

E. Petition 18-19: Site Plan Modification at 80 Fenn Road, 80 Fenn Road, LLC, Owner Montana Nights, Applicant, Merle McKenzie, 80 Fenn Road, Newington CT, Contact.

Chairman Aieta: Do you have a motion?

Craig Minor: No.

Chairman Aieta: We are going to do the seating portion, at this time. The consideration of the parking is not part of this motion. We need to wait for the engineering results.

Commissioner Claffey moved to approve Petition 18-19 Site Plan Modification, at 80 Fenn Road, 80 Fenn LLC, owner, Montana Nights applicant, Merle McKenzie, 80 Fenn Road applicant/contact outdoor seating portion of the application Petition 18-19 to just include the outdoor seating bar structure with seats and bollards which is separate from the pending parking part of the application.

The motion was seconded by Commissioner Woods.

Chairman Aieta: I think you need a condition that they put in the bollards.

Commissioner Claffey:

Condition:

1. Ballards to match in color on the parking lot side in front of the parking spaces that abut the new barnyard structure.

Commissioner Pane: He must come back for the parking within ninety days.

Merle McKenzie: I’d like to come back in two weeks.

Chairman Aieta: That’s between you and your engineer.
Merle McKenzie: I’m going to fire off some heated text tomorrow morning, and I think Joe is going to write, because he wants that parking as bad as I do, so this might light a fire under the engineer.

Craig Minor: Can I suggest that it be approved by the Commission within ninety days.

Merle McKenzie: I’m not sure what that means.

Commissioner Woods: You have ninety days to complete it, if you can do it faster that’s fine.

Merle McKenzie: How can I get on the agenda? Just come in two weeks and I can give you an update.

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

Chairman Aieta: Okay, you can do your outside seating.

Merle McKenzie: Thank you gentlemen. Thank you.

X. TOWN PLANNER REPORT

None

XI. COMMUNICATIONS

Commissioner Sobieski: I’ve been sending you everything from CCROG

XII. PUBLIC PARTICIPATION (For items not listed on the agenda; speakers limited to two minutes.

None

XIII. REMARKS BY COMMISSIONERS

Commissioner Pane: Since the Town Engineer is going to be at our next meeting, do you think we could have a report from him concerning the library parking area. It appears that there is a drainage problem between the library and the residents, and I think we should make sure that the residents of Hart Lane are protected, so I’d like to get an update on that for our next meeting.

Commissioner Woods: Could we also get an update on any pending legal issues that we might have.

Commissioner Claffey: You all received an e-mail from Planner Minor that I had submitted to him yesterday, discussing some signage. You all got the e-mail, it wasn't specific to any business in town, it was just something to look into about the use of signage. Review the e-mail and if you have any questions, feel free to address them to Mr. Minor or myself. If you want to meet somewhere to discuss this, and maybe at a future meeting we can discuss this in a little more detail. I thought we might have a little more time tonight, but I'm okay with that, but I would like to discuss this at the next meeting.

Chairman Aieta: Put it on the agenda.
Commissioner Claffey: We can put it on the agenda, but in the meantime anybody wants to meet…..

Chairman Aieta: He is talking about the signs inside.

Commissioner Claffey: The signage portion, we approve signs in town for a building, they put the sign up, and then on every piece of glass on the store front, everywhere around town, it's not just one specific area. It seems that they are just loaded up with more signage and I just wanted to get everyone's opinion, thoughts, on how, we did the temporary sign issue very well, I've seen improvement with our ZEO, but I would like to see if there are other ways we can tighten up the reins since it is just getting out of control. Thank you.

Chairman Aieta: Any other Commissioner comments? Remarks?

XIV. CLOSING REMARKS BY THE CHAIRMAN

None

XV. ADJOURN

Commissioner Fox moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 9:01 p.m.

Respectfully submitted,

Norihe Addis,  
Recording Secretary