

**PLANNING & ZONING COMMISSION
WINDHAM, CT
MINUTES**

August 25, 2011

The Windham Planning & Zoning Commission held its meeting on August 25, 2011 in the Meeting Room, Town Hall. Chair Paula Stahl called the meeting to order at 7:05 P.M. Members present were Dawn Niles, Dan Lein, Claire Lary and Paula Stahl. Excused were Victor Rayhall, Jean Chaine and Juan Montalvo. Also present was Town Planner James Finger.

I) Approval of Minutes

- a) The minutes of July 14, 2011 were approved. Motion by Dawn Niles and seconded by Claire Lary. The motion carried unanimously.
- b) The minutes of July 28, 2011 were approved. Motion by Dan Lein and seconded by Dawn Niles. The motion carried unanimously.
- c) The minutes of August 11, 2011 were approved. Motion by Claire Lary and seconded by Dawn Niles. Voting in favor of the motion were Claire Lary, Dawn Niles and Paula Stahl. Dan Lein abstained.

II) Dawn Niles made a motion to add the application submitted by **DeSiato Sand & Gravel** to renew their permit for a gravel operation to tonight's agenda and Dan Lein seconded the motion. The motion carried unanimously.

The Commission took receipt of the application and scheduled a public hearing for September 22, 2011.

III) Public Hearing Items

(Six) 6 Liquor & Wine, 361 Boston Post road, North Windham – application for Special Permit to establish a liquor store in an M-1 District. This is a continuation from July 28, 2011.

Commissioner Dawn Niles recused herself from voting on this application citing a conflict of interest.

Chair Stahl explained that the public hearing was continued from last month because there was a question as to whether all abutting property owners had been notified of the public hearing.

Attorney David Rintoul, of Brown, Paindiris & Scott LLP, representing the applicant, submitted the original and 10 copies of the certification of mailing. He said they received acknowledgement from all the other tenants in the shopping center regarding the new hearing date, as well as the old hearing date.

Planner Finger said the abutters not previously notified were Keeper Corporation, Eastern Star and Russo Family Associates (owner of property occupied by Wendy's and Ruby Tuesdays').

Attorney Rintoul said Wal Mart has also been notified of the hearing tonight, as well as all the abutters and other stores within the center.

At the last meeting Chair Stahl asked about parking calculations. Planner Finger said Mr. Lent, owner of the shopping center, had just gotten approval for an addition which is not yet built. He had to buy additional land from the Town of Windham in order to add more parking. Planner Finger said we have recently revised our parking regulations and it is presumed that the applicant satisfies the parking requirements.

Attorney Rintoul presented a report prepared by David J. Held, PE which analyses the parking, along with all the other issues in Section 62.5. The report notes that the space proposed for the liquor store was previously used as a retail printing shop. Both of these uses require the same amount of parking at 1 space per 150 square feet of ground floor area. Mr. Held concluded that the change in use will, therefore, have no impact on the shopping center's parking requirements.

Attorney Rintoul then referred to Section 73.1. He said the store would be located in an existing retail area. He added that the applicants have many years of experience managing and working in liquor stores. None of the businesses that they have managed have ever had an issue with the State Liquor commission. They own a restaurant in Southington, CT., and have been contributing members of the community. He then referred to Section 73.1.5 adding that in their opinion the requirements of this regulation have been satisfied. We feel that this application meets town land-use regulations; it is more than 500 feet from another package store and the State allows the town, based on the population, to have another liquor store. He said the town currently has 9 liquor stores, and based on an increase in population the town is allowed to have a 10th liquor store. He said the only issue that remains is whether the AAA Driving School, which would be located next to the proposed store, fits the definition of schools in the town's regulations. The regulations say that a school is defined as a public or private entity providing education to secondary and younger school children, and is not intended to include post secondary education.

Audience comments: 1) Jeff Goss said this particular area has enough bars and package stores. He said he lost a sister to a drunk driver. We don't need another package store in this area of town, he added.

2) Chair Paula Stahl said a petition containing 561 signatures opposed to the proposed liquor store was received.

3) Carl Abbott said we don't need anymore liquor stores in this area. He referred to numerous traffic accidents and deaths due to drunk drivers.

Attorney Howard Schiller, speaking on behalf of John Sutherland, who is the proprietor of Brandy & Brew Package Store located nearby, said there clearly are deficiencies in the proposal submitted by the applicants. First and foremost is the fact that the AAA Driving School would

be located next to a package store. He said the regulations state that a package store permit cannot be issued if the package store is within 500 feet of a school. He said the regulations do not define a school in terms of it being a public school. The regulation states that it may be public or private. The regulations do not require that the school be licensed in the sense of offering diplomas or otherwise. The only requirement of the regulations is to give guidance with regard to what constitutes a school, and that it is not intended to reach post secondary education. The reality of driving schools is that rather than addressing post secondary education, they are in fact addressing the needs of minors within the community. He said the Windham Public School system no longer offers driver education, so there is no driver education program available to minors within our school system. Additionally, in the recent past, our statutes have been changed to require that 16-year olds and 17-year olds, who are looking to drive, must get limited licenses that carry restrictions all of which are designed to try to reduce the incidence of accidents, and even death on our highways, said Schiller. He then submitted a copy of the Department of Motor Vehicle's Annual Report on Effectiveness of Connecticut's Teen Driving Laws. In the report it indicates that the State of Connecticut, as a result of the change in the statutes, now requires that students go to a driving school class, have 8 hours of classroom and that they spend 2 hours in a joint classroom with their parents before they can get a learner's permit. He said the school next door to this proposed package store is a school which is not going to be providing post secondary education, but is a school which will be providing education mandated by the State of Conn. There has been no effort to address the mandate in the regulation that a package store permit not be adjacent to a school. I don't believe under the language of the zoning regulations that a driving school is excluded. He said the regulation is deliberately broad enough to include a driving school, and I don't think this applicant qualifies. In addition, the regulations also require that you have to take into account the health, safety and welfare of the community. There is no compelling need to see another package store in this community, let alone 1/10 of a mile from an existing permitted location. Attorney Schiller added that there are other issues to consider which include a lack of parking, no loading dock, making it difficult to receive deliveries. A package store is going to generate a lot more traffic than other retail uses. A package store is going to take deliveries from a variety of suppliers who are going to be shipping their goods on large box trucks to this location. It is estimated that there will be at least 20 deliveries twice a week. This area is poorly situated to receive these deliveries. There are also traffic issues at that intersection, and a package store is going to generate a lot more traffic than other retail uses might, he said.

Attorney Schiller summarized his comments by saying the sale of alcoholic beverages would have a detrimental effect on the surrounding neighborhood, and it should not be permitted. Having two packages stores within 1/10 of a mile is going to cause changes to the neighborhood. He said the applicant is required to conclusively demonstrate that the proposed use will be carried out in a manner consistent with the protection of the general health, safety and welfare of the people in the community.

Commissioner Dan Lein asked is it a mandate of the public school system to offer driver training. Attorney Schiller said they are not mandated to offer driver training. Commissioner Lein asked is it actually a school, or is it a school because it calls itself a school. Attorney Schiller said he believes it is a school. They are teaching people the necessary rules of the road and the students have to earn certificates.

Chair Stahl read the definition of school. Section 73.2.10 defines a school as providing education to secondary and younger school children...

Continuation of audience comments:

4) Louis Easton, 59 James Drive, said he doesn't understand why anybody would want to have another package store next to Wal Mart. We walk our kids to businesses in that area. Having another package store seems unorthodox. I don't feel safe for my children, as well as other members of the community. There is no point in putting people's lives in jeopardy, he added.

5) Theresa Fleming said she is the mother of 6 children, and her children have had driver education. She said she would not want to have a package store next to a driving school. She also referred to traffic in that area. Adding another packager store in this area will be a disaster and we will see more accidents.

6) Corey McConnell said the most accidents he has seen are between the Wal Mart intersection and Airport Road. He asked why we need two package stores so close to each other; and next door to a driving school. There are enough accidents on Route 6. We don't need anymore.

7) Henry Crane, Windham Street, Willimantic referred to a prior application for a liquor license on lower Main Street which was denied. This application was denied because the prior bar owners had problems with their liquor license. It was also too close to a church. This proposed liquor store is too close to a school. It is too close to Route 6. There is already a package store nearby. It is dangerous. You turned down a prior application. I believe precedence means something, and if somebody turned the other application down you should at least listen to the wisdom of that decision. You should think about that before you say yes to something that is so dangerous.

8) Marie Green, Willimantic, said she agrees with most everything that has been said this evening, but there is one thing that I didn't hear. There is an existing school down by the airport. How close is that to the proposed package store, she asked. Planner Finger responded and said that was a daycare center, but that has been closed. Ms. Green referred to traffic in that area especially with traffic coming in and out of Wal Mart. The proposed package store will only add more problems to that area, she said.

9) Commissioner Dawn Niles read a letter from Jean Chaine, Windham Center. He states that the State of Connecticut Liquor Control Act under Section 30-14 that requires a minimum of 2,500 residents per package store permit seems to assume that the population density of the drinking age residents in a community would be the average that exists in the State. That average according to the 2010 census was 26% of the population was under 21.

The same statistical outcome for the Town of Windham in 2009 was 34% without taking into account the under 21 population at Eastern University.

It seems that the 10 existing retail outlets offering alcohol beverages in the Town of Windham is already excessive considering that there is currently roughly one store for every 1700 people

over 21. Adding one more venue for the retail sale of alcohol just because the Liquor Control Commission would issue one based on their formula, would saturate our area beyond the ability of any one retailer to make a go of it.

Now there are some who would argue that let the market play out and the better operator will survive. But I think there is another factor at play here that needs consideration.

The substance abuse problem of which alcohol is one component is only too apparent in Windham with the Sober Houses, Half Way Homes, Group Homes and related treatment facilities that exist throughout our community.

The ability for the under age population to easily acquire alcohol does seem to continue to fill the ranks of adult substance abusers. But, we in this community do have the ability to make it harder for that to happen.

When you let the market determine who survives, the marginal operators can be tempted to find ways to stay solvent in their businesses. Among them, ignoring an alarm bell of the possibility that a repeat customer's purchasing habits signals possibility of diverting those purchases to under age people. Further, the marginal operator will not have the resources or desire to aggressively ferret out false Id's in order to save the sale.

Limiting the number of package stores using a formula that is based on the number of drinking age population would divide the customer base portions each store serves at a size that would encourage a successful business thereby reducing the temptation by owners to risk infractions that would result in penalties including loss of license.

Under the State Statutes Chapter 124 Zoning, Sec. 8-2 states in part....Such regulations shall be designed to lessen congestion in the streets; to secure safety from fire, panic, flood and other dangers; to promote health and the general welfare.

I think denying this Special Permit request based on the basis that the general welfare of our underage population to include the temporary non-resident population is better served by limiting the number of package stores locations in our community

10) Dawn Niles, North Windham said she agreed with Commissioner Chaine. She feels there are enough package stores, and just because the State is telling us that we can have one more, we don't have to accept one more if there is a way for us not accept it. It has nothing to do with the applicants. I am sure they are fine owners. I am also the wife of a Fire Chief, and we do have a serious problem at that particular intersection. She said adding another liquor store is not the right move right now.

11) Kathleen Sutherland, Newington, CT said she was at the last P&Z Commission public hearing, and in that short time the local residents of Windham have had an opportunity to express their disapproval of the Special Permit. 561 citizens of Windham signed a petition citing their concerns for the welfare of their community. Alcohol is a controlled substance and its sale cannot be taken lightly. Alcohol can be addictive. Alcohol contributes to a host of social

problems including, alcoholism, teenage drinking, abuse, physical and mental health issues, as well as traffic fatalities. These are problems that citizens who in the area are concerned about. MAD (Mothers against Drinking) rank Connecticut the worse state for DUI occurrences in the United States based on the highest percentage of total traffic deaths that are DUI related. Route 6 is well known as a road with a high accident rate. There are already 5 package stores on Route 6 between Young's Package Store in Willimantic and Frank's Package Store in Chaplin, a distance of 5 miles. Further evidence of problems associated with addictive alcohol consumption are reflected in a sampling of requests Brandy & Brew has received and complied with over the years. They include a mother who did not want her adult son to be sold alcohol because of alcoholism. An adult daughter who requested that alcohol not be sold to a father who is abusive when he drinks. A father requested that only beer be sold to his son for medical reasons. A wife asking that her husband not be sold high proof alcohol because he becomes abusive. The added availability of alcohol in this area will complicate their concerns. Just because you can legally sell alcohol, doesn't mean that you should choose to do so. Likewise, just because the Planning & Zoning Commission can increase the availability of alcohol in this area doesn't that they should choose to do so.

Brandy & Brew employs 4 employees in order to provide the service and the security necessary to comply with State Liquor Laws. These employees have denied the sale of alcohol to minors and intoxicated individuals. At times, the customers being denied present a confrontational behavior with the potential to escalate. The staff is trained how to diplomatically address this issue; however we are concerned the State Police are understaffed and overburdened. Their response time is delayed and the governor presently is seeking to reduce the police force further. This does not support a ready presence of law enforcement in the North Windham area. Area residents have suggested some of the following needs in North Windham that would add diversity and stability to their neighborhoods; a child daycare center, a youth center, an ice cream shop, just to name just a few. Please listen to area residents who will be affected by your decision. Studies show the best way to address problems related to alcohol are at the local level. As committee members the citizen's objections to this Special Permit require your serious consideration. You must provide the moral leadership required to deny this Special Permit. Windham residents want and deserve your support, she concluded.

12) Ronnie Pendaris said my wife will be taking our sixth child to enroll in the driving school, and I hope there will not be a package store next it. You should also pay attention to the surrounding area. While it is not federal land, it has FAA access and it also has military, as well as civilian access. The military trains there, the FAA trains there. That driving school is a school. I respectfully request that this board look just a little bit further into the term of affiliation. When one person, or two people, identify themselves on an application to a board, the board doesn't necessarily have the access and the means that a business owner or a law firm such as Brown, Paindirris and Scott would have to do some in depth research to see where those folks are further affiliated. I would encourage the board to use town resources, maybe the town's attorney to check a little bit further into the state records to see where the applicants fully fit in by their other businesses. We definitely need more business development in the community, and I commend the committee for adjusting our rules and changing our parking. This model doesn't fit. It's not right for the location. There is something else that could go there, and I would encourage these gentleman to please, if you could put together the program for a liquor store, we

need other businesses. Please put something else in there. This particular area has been in development for a couple of decades. We are making progress and this would be a step backwards. He said we don't need another liquor store. The question is 1) does this meet the town's requirements, and 2) do we want this business there.

13) Corey McConnell said he is a firefighter and has been to over a dozen accidents. I am also a public safety officer teaching public safety for my fire department and for Windham. If I can prevent accidents I will. I don't want to see anymore.

14) Tony Lent, owner of 361 and one of the partners in the LLC, said first I would like to address the attorney's remarks about deliveries. That road behind the plaza is made for deliveries. We purposely put in 48" doors so that you could put a pallet in there. Making deliveries in the front of the building is a myth. I don't know where the loading dock stuff comes in, but I have been in retail for 50 years and there are a very few stores that have a loading dock. We have huge delivery trucks come in there and they come in both entrances with no problems. So, there really isn't a problem there, and there have been very few times that the parking lot has been full. The diner does most of its business in the morning. The pet store does most of its business during the day and a little at night. That whole section over there actually has very little parking during the peak hours. Also, one should remember that AAA was down here on Valley Street next to a package store. I have talked to AAA and they do not have a problem with the proposed package store. As far as the traffic light out front, that is set up by the State of Connecticut. We have nothing to do with that light. I have tried to get them to change their sequences, but they can't. One of their problems is that Wal Mart, (and this is something that you want to pursue), and all of Northridge Drive should have an entry way or an exit in front of my 351 entrance.

15) Attorney Schiller reviewed Section 71.1.0 pertaining to off-street loading space. He said this is the section of the regulations to which I referred to. He said one loading space shall constitute an area 12 feet in width and 30 feet in length with a vertical turn of 15 feet. That is the roadway. It is not a separate loading space. The only 12 feet they have there is the roadway itself. Beyond that, I can only indicate that I was informed that the reason the AAA moved towards Windham was because it was contrary to the requirements of their franchise to avoid an area contiguous to a package store. If this permit is granted they will be in breach of their franchise agreement, and will be forced to move.

16) Lynn Kelsey said he is a 20-year member of Eastern Star Lodge, past master and former member of the Board of Directors. To my knowledge we have never received a notice. I was informed in other ways. We are a fraternal organization. We do not have alcohol and we are against having another package store in the area.

17) John Sutherland, owner of Brandy & Brew Package Store, said he bought Brandy & Brew in 1987. At that time, zoning required 1500 feet between package stores. In 2002 the zoning was changed to 500 feet. I am not going to lose the customer base where I am, but if this board wants more alcoholic sales in this region I can change my business plan, I can go discount, and I will, he said.

Attorney Rintoul acknowledged the statements that have been made about alcohol and alcohol venues. There are ways the community can make that feeling expressed in the regulations, for instance, by increasing separation distances. There is a way the community can reflect its desires regarding alcohol outlets in the regulations. However, as the commission knows in deciding on a Special Permit, the law requires that the commission follow the standards in the regulations. If the applicant satisfies the standards in the regulations, there is no discretion to deny the Special Permit. There has to be specific criteria, and if they satisfy that criteria the Special Permit needs to be issued. He said he understands that based on what has been said the community may wish to change its regulations, but unfortunately we have to deal with the reality of the regulations that exist now, and whether under the existing regulations his client's application satisfies them.

He said with regard to the school issue, there is a flight school at the airport. Brandy & Brew is closer to the flight school at Windham Airport than my client. Under the M-1 regulations a school does not appear to be a permitted use. If there was a zoning permit issued for the driving school, I doubt it was analyzed in terms of whether it was a school as opposed to any other retail space. A school is defined as a public or private entity providing education to secondary and younger school children and is not intended to include post secondary education. As far as the driving school goes, there is no particular age requirement, or age factor, with respect to the driving school. The definition of school is tied to age; secondary and younger. There is no particular age relation by definition with a driving school. So, I believe calling anything that says it is a school, a school, is defined by the regulations. It is beyond the scope of what is permitted. As far as the parking and the traffic, we had an engineer give us his personal opinion that traffic and parking requirements of the regulations are met. I have represented other package store owners seeking Special Permits, and in all those times no-one has presented any actual evidence that a liquor store has anymore traffic than any other retail use. Sitting here today, I don't believe you have the authority to re-do the parking for this entire development. Attorney Schiller was talking about a general health, safety and welfare factor in the regulations. It is important to note that it doesn't say you can consider whether the use would promote the general welfare. Rather it is limited to whether the proposed use would be carried out in a manner that would promote the general welfare. All that allows you to do is to determine whether they are going to pursue the use in a manner that would be consistent with the protection of general health, safety and welfare. He said based on the experience of the applicants in managing and running liquor establishments, and their record of no blemish with the Liquor Control Commission, I believe we have satisfied our burden to conclusively demonstrate that they would operate this use in a way that would promote the general health and safety. And as far as the separation issue, the fact is that under any definition we satisfy the 500 foot limitation. Under any definition we satisfy the state requirements for number of permits per area. He said we have satisfied the conditions under the regulations for the issue of a Special Permit.

18) Louis Easter said there are people who live in my community who walk their kids throughout all the stores in that complex. You talk about legal technicalities, or zoning or parking. I walk my kid to Wal Mart. There is a diner there and we sit outside and eat breakfast. There is no need for another liquor store. There is a petition with over 500 signatures saying that there is no need for it.

Chair Stahl said we need to make all our decisions based on the regulations as they exist today. She said the proposed location does meet our regulations. Our regulations say that it has to be at least 500 feet from an existing package store. It is 600+ feet.

19) Kathleen Sutherland asked when someone obtains a liquor permit, is the size of the store limited so that if the driving school moves and opens up a space next to the proposed store that could keep growing as long space became available. The availability of more sales of alcohol in that area would continue to increase. If the commission is thinking of traffic patterns you need to consider that.

David Held, a professional engineer with Provost & Roverro, said he prepared the report that was submitted. He said he would like to add some clarification as far as the separation distance between the proposed store and the existing store. He referred to a plan that was prepared for the site. The larger plan is a plan that our firm prepared on behalf of Mr. Lent when the last addition and parking renovations were proposed. It shows the distance to his property line which is closest to the existing facility. The smaller plan is taken off of the WINCOG GIS for the land in between Mr. Lent's property in the existing facility's lot. You can see that the total separating distance is actually closer to 1000 feet rather than the 600 feet that has been talked about. He said he is available to answer any questions you may have in respect to that report.

Planner Finger explained that the commission has 65 days to make a decision once the public hearing is closed. We have already taken 30 days so we would have to ask the applicant for an extension if you need more time. The legal question is its proximity to the driving school and whether it falls under the definition of school. He said we could confer with the Town Attorney for a clarification

Attorney Rintoul asked if it would be possible for the commission to send a letter addressing the issue of the school to the Town Attorney.

Planner Finger said we would have to keep the public hearing open, but we would need an extension from the applicant in order to accommodate that. Since the applicant's attorney has asked for an opportunity to confer with our counsel we would be able to have a continuance, but the applicant would have to grant an extension.

Commissioner Dan Lein said the distance requirements are satisfied. The population requirements are satisfied. Is this in compliance with what our regulations say? Although we have received the spirit and heart of what the community would like to have, and in as much as you would like to acquiesce to that or at least part of it, there is the honor of the law.

Attorney Rintoul said his clients would agree to an extension to keep the public hearing open so that we can address these issues.

Chair Stahl said the Commission does not have to hear his rebuttal. We need to hear what our Town Attorney has to say because he is the one that needs to defend us. Attorney Rintoul said he would be happy to provide any guidance on the issue to the Town Attorney.

Planner Finger said the Town Attorney will not consider any input if the public hearing is closed. He said it is how you perceive the term school as it is written. He said I don't think there is a clear answer unless there is case law. But, that is the Commission's decision to determine how it affects the school's function.

Attorney Rintoul said it would depend on what was... when the use permit was given to the driving school was it given as a school or a general retail use. If it was as a general retail use, and not as a school, I think that raises a potential issue if using the school issue as a pretext for denying this application. I will abide by the decision of the commission whether they want to keep the hearing open or not.

Commissioner Dawn Niles said if a decision is not reached tonight, the tapes of the hearing will have to be made available to absent members Jean Chaine, Victor Rayhall and Juan Montalvo in order for them to be able to vote at the next meeting. Planner Finger said they will have to familiarize themselves with the record.

Chair Stahl said she was inclined to close the public hearing. Planner Finger said the question for the Town Attorney was would he be able to interact. And, if you close the hearing he would not be able to do so.

Attorney Schiller said if the public hearing is kept open obviously it is the applicant's petition. If you accept to do so, whatever the content of this communication needs to be expressed to the public so that the public has an opportunity to respond, and that it not be a private communication. That communication from the Town Attorney needs to be made available through the commission so that members of the public can respond.

Chair Stahl said the only thing we would be asking the Town Attorney for is his interpretation of the regulation as it referred to the definition of school.

Attorney Rintoul said they would be willing to have the public hearing closed.

John Sutherland, owner of Brandy & Brew, said he would just like to understand exactly why the public welfare is not an issue with granting this Special Permit. The public is very concerned about their welfare, and I think you should really take that into consideration.

Chair Stahl said the reason we would close the public hearing is because we are not going to gain additional new information. Just hearing from the Town Attorney on his interpretation is a matter of clarification.

Mr. Patel said there are so many places in other towns that are next to driving schools and also Wal Mart Plaza. You need to think about that. Chair Stahl responded by saying we need to follow our regulations and not other town's regulations.

19) Henry Crane referred 16 and 17-year old kids. By law they cannot drive, but they are going to be motivated to want to drive. By law these kids are required to go to that school or some

school like it or they can't drive. Please don't allow this Special Permit. You are on Route 6 and we know what Route 6 is called. It is a formula for death.

Chair Stahl said the public hearing is closed.

IV) Generations Family Health Clinic, 40 Mansfield Avenue, Willimantic – this is a Special Permit application in accordance with Section 72.8c for an electronic message sign.

Kevin Kenzenkovic, representing Generations, spoke to the application for an electronic message sign which can be programmed. It will include changeable copy without rolling text. He said the sign will include general announcements such as blood pressure screenings, flu shots etc. The commission took receipt of the application and will schedule a public hearing on September 22, 2011

V) Old Business – Zoning Revisions

Planner Finger's staff report explained that at the last meeting the commission discussed a change to allow residents to have hens, and to modify the regulations on earth excavation. The commission also wanted to examine other commercial areas for the B2, B3, C1, C2, and the M-1 District.

Commissioner Dawn Niles said she received a lot of negative comments regarding allowing hens in the city. She said if the regulation is modified, it would be changed to allow only hens. Roosters would not be allowed. A concern was how this would be enforced.

Chair Stahl said there would be more discussion and also a public hearing on the possibility of allowing residents to have hens.

With regard to revising earth excavation regulations, Planner Finger said his main concern is that he wants to make sure we have regulations for all existing operations. He said it seems that the newest draft focused on new applications and we don't have many new applications. My worry is that are we going to lose control over existing operations. Chair Stahl asked when one of the grandfathered operations comes in to expand would they be under the new rules or as a grandfather are they carte blanche and they can do whatever they want. That is something that has to be researched, she said. Planner Finger is D'Siato is the only one that is not grandfathered. Commissioner Dawn Niles said the concept is that we don't have to have them keep coming in front of us. Planner Finger disagreed. He said it is helpful to the staff to have them return. At least every 5 years. The way it is written it appears that we would have the Zoning Officer issue the permit. On existing operations we would inspect the operations and you would have a progress report, said Finger. Chair Stahl said if a complaint was received we would want to hear about it. Planner Finger urged that we have all the provisions guiding operations in place and maybe take out the part on the five year rule.

Chair Stahl said the concern is that a couple of the words that were used were some of her interpretations of the nuances and the phraseology of the inspection and the renewals. Just

changing the words changes the regulations. Mr. Finger said his worry is losing track of those operations because it is quite a struggle to get them to come in with plans.

Char Stahl said she has not been able to work on the other commercial areas, but she said we do need to streamline a lot of our language eliminating the therefore and whereby.

VI) Miscellaneous

Chair Stahl said she was invited to update the Town Council as to the commission's activities. She said that she, Commissioners Dawn Niles and Jean Chaine attended the Council meeting on August 16, 2011. She said Council members were surprised at the commission's accomplishments.

As there was no other business, the meeting was adjourned at 9:35 P.M.

Respectfully submitted,

Lillian Murray, Clerk