

**NEWINGTON PLANNING BOARD MEETING**  
**Minutes**  
**Monday, July 10, 2006**

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1. **Call to Order:** Sandy Hislop, Chair Person called to order the meeting at 6:38 P. M.

**Present:** Sandy Hislop Chair Person, Denis Hebert, Peggy Lamson, Jack Pare, Vincent Frank, Chris Cross, John Frink, and Tom Morgan, Town Planner.

**Not Present:** Gail Klanchesser and Cosmos Iocovozzi

**Guests:** Dotty Watson, Bernie Pelech, Atty. and David George, Engineer of WD Devel. Partners, both for Texas Road House  
Parker Harrington, R.E. Manager  
John Trettera, Newington Chief of Police  
Phil Pastan, President of the Richmond Co.  
Don Rhodes, P.E.-Norway Plains Assoc., Inc.  
Aaron Spencer, Pizzeria UNO  
Jim Carey, Pizzeria UNO

2. **Minutes:** Minutes of June 19<sup>th</sup> to be reviewed at end of meeting.
3. **Correspondence:** Correspondence from the Richmond Co., Conservation Commission-2 Memos, Some material for building a Bio Diesel Refinery down at the Old Mobil Terminal.
4. **Public Hearing:** Access to Smokey Bones and Pizzeria UNO  
Anyone here representing them? Yes, Phil Pastan.  
Denis to preside over meeting: Denis received their letter and thanked him for his concerns. Phil is President of the Richmond Co. and he is 50% owner and the other two partners are John Kane and Teddy Linseman. Phil: I would like to make a few comments. Phil apologized for confusion and for Pizzeria UNO's behavior. He was surprised by the way the tenant treated the Board, it was anything but professional and apologized for that also. Unfortunately they had a different agenda and that's why they were doing what they were doing. Back in March, two of our company men were here presenting potential mitigation measures to this problem out there. He gave me his impression that the closure at the meeting that the tenant, Pizzeria UNO would work with the Board, and come up with some ideas and mitigation measures for the next meeting. Since then I found that there's been two weeks from that time and nothing has been presented and came across as if they didn't care.  
At that point I got involved and reached out the Pizzeria UNO with no avail, didn't return his call, couldn't reach his tenant which is unusual. I reached out to Don and he stated they hadn't made much progress regarding anything on that and then Phil heard that the Board had voted to close the curb cut. At that point I decided to take the lead and get involved and see what the problem was. Certainly don't want an unsafe condition out there by any means. Furthermore, I wouldn't want to put a condition on there that would hurt the property in the long term. So I've come before you to explain that now that I know

that there's a serious lack of communication from Pizzeria UNO to you, I would like to move them out of the way and handle it ourselves. During that process I heard thru the grapevine and now affirmed that the trio has hired a third-party co. to sell and close their store. Tried to call them again and they still haven't returned their call. Since then Phil hired Norway Associates, Don Rhodes, to dust off the plan and find out what mitigation measures we could propose to the town. In addition to that, I met with the Police Chief and sat down to understand what type of accidents took place and how many and what his thoughts were and hopefully come with a mitigation package that would be acceptable. We thought tonight, before the vote, we could explain some of the ideas that we came up with and we have submitted these plans to show you what they were. If it is at all possible, we would like to suggest taking the next 7-14 days, whatever the Board feels appropriate to have your/our engineer at our cost and the Police Chief and whom ever else you feel appropriate to come up with a mitigation plan and keep Pizzeria UNO out of it for that property. What that will do for us is: a) get the Town of Newington what they would like, b) give them an opportunity to re-lease their building to a tenant, as opposed to having an empty building, and eventually having a stabilized project that works for everybody. I do understand that there was so much aggravation from the last meeting, that that may not be possible, but I am here before you asking for at least a seven day period for all of us to get together at their expense to come up with either something in addition to what they are proposing or one of these options to make it safe and better for everybody. That's what he wants to work out. Denis: Any comments from the Boar? Sandy: I think it sounds like a reasonable request based on what he is telling us. I would like to see him have the opportunity to present this in a different manner that we've been used to. Vincent went on to explain and bring Phil up to date on what he remembered. Phil agreed it's not a signage problem. Denis: feels Police Chief shouldn't be involved, he's not a safety expert. He's been put in the middle and wants the pressure off of him and work with the Board instead. The real issues are people that turn in/out incorrectly. Denis went on to discuss issues. Phil suggested putting counters on the street for real honest information. Denis continued discussion the curb cut and gave his thoughts. Phil will come up with the best solution, wants to see it safe and not closed. Vincent also doesn't want to see it closed-have a sign put up saying "No Left Turn". Denis: Tractor-trailers are parked along side of the road now. Phil will look into it. Jack made some suggestions. Denis: Need to come up with a solution. It's your responsibility. Phil: Best approach is to go back in the next couple of weeks, work on it come back to you and have your consultant take a look at it as well. Chris also added more information/suggestions. Major intersection really needs to look at having a single entrance. Denis: Open it up to the Public-Chief of Police looked at this intersection and agreed with everyone it's a poor design. His personal feeling is that it's not a safety issue; it's a design issue. His feeling is something can be designed there, a one-way that would work. Discussions ensued. Vincent: Agreed with John, making it harder for people to make it impossible for them to enter that area. Denis: Gave Aaron Spencer founder of UNO's Restaurant Corp. the floor. Aaron: As you know I have a deep interest in this project and it's important to the welfare of UNO. He proceeded to explain why he was late. Also stated it being an analogist to the situation up in Newington and he thought he could shed some light on this. What made him stop instantly was this particular intersection similar to Piscataqua. Jim had a camera, took a few pictures, hot off the press to pass around of an intersection that would be similar to Piscataqua. He felt it was a perfect analogist situation.

The difficulty with this particular entrance and egress at the restaurant site is that the customers make a right turn of Piscataqua. Aaron continued on discussing the problem. Denis: This not an analogist to the intersection we are talking about. If you come out of the parking lot from UNO's and take a right, there are two directions you can take a left or right at the light, the left hand turn is missing in this analogy. Discussion ensued. Aaron suggested that they should put up a sign "Do Not Block Driveway". Peggy disagreed with Aaron's. Chris suggested having engineers assess it and appreciated the additional information. Vincent: We consider this the third meeting that these gentlemen have been at and they still have not come up with what the Board has asked for. Prefers not speaking with them. Vincent gave his opinion on how he feels. Denis: We will continue the hearing until the second Monday in August. August 14<sup>th</sup> at 6:30 P.M to be exact. Phil would like a week to 10 days before that date to get his data together/analyzed. Denis: He did address a couple of issues tonight. Phil: Thank you very much for considering the delay in this case.

#### **4. Preliminary Discussions:**

**A) *Proposal by Tyco for a 2-lot subdivision.*** Not ready tonight, need more time.

**B) *Proposal by King Weinstein to expand parking lot at 177 Shattuck Way.***

King Weinstein: Wants to add additional parking on the side of Shaftmaster Drive. He pointed out on the map how it would work. Clinic on the side and customers want something closer. They went on to discuss what they wanted to do. Tom: Stated that there are Zoning issues requiring a minimum of 30 feet from the property line. Discussion ensued. Chris: He concurs as an acknowledgment to the Fire Chief to keep it open and it's within your set back and concerned about it being used on a regular basis, etc. and went on to explain his concerns. Denis gave his concerns on the fire apparatus in getting behind the area. Chris: Can reconfigure the plan, have more than sufficient land area. Denis: Went on to explain the history of this design and what was wanted and how it was approved. King: To come back with a better plan. Tom questioned wetland issues. Before spending a lot of money, make sure they don't have wetland issues in the back. King: Will have someone mark them off. John: What's your motivation for doing all that tree work. King: Had vagrants, trash, and appliances in all the brush and wants to clean it up. Plan is to make it look nice. King will be back with a new reconfigured plan. Sandy: Would like to continue, need more information before going to a Public Hearing. Preliminary, continue to August 14, 2006. Coming back with new *plans*.

**C) *Proposal by Tyco for a Sleep Inn at 141 Shattuck Way.***

Not quite ready for tonight. Continued.

**D) *Proposal by Texas Roadhouse for a restaurant at the corner of Fox Run Road and Woodbury Avenue.***

Bernie Pelech: I'm here with Texas Roadhouse, David George from WD Partners; Engineer is here and has an early version of conceptual site plan. Parker Harrington is here from Texas Roadhouse to answer any question about the operation of Texas Roadhouse that you might have. As you know, the site is the former McCoy site that has been vacant since he can remember (goes back 30 years). A number of proposals that have come before this Board. This proposal appears to be something that is allowed by the Zoning Board Ordinance. May or

may not require variances at this point, becoming aware of where to put a certain retaining wall that may or may not require a variance, but it's a pretty straightforward plan. He turned it over to Dave George to give the Board some of the specifics and he would like as much feedback from you he can get from you and come back with a foresight plan on August 14th and hopefully a Public Hearing or a least a plan you can review and hopefully vote on it and to accept and begin deliberating on it. Peggy: Question? Are you going to keep plenty of vegetation and trees there that will be abutting Beal's property and the cemetery? They are meeting with the CC on Thursday evening and will have the same engineer, architect/landscaper who did the lot on Longhorn Steakhouse who had a good reputation, and had them for this project also. Dave: WD Partners is the engineers, architect and landscaper and doing all the work for this project. George: Question regarding the residential property-there is a 30 foot set back that needs to be a vegetated bumper that needs to be maintained and the cemetery, updated the plan physically located it on the drawing, showing a 25 foot buffer, one of the PB requirements looking at some type of fencing in the parking lot just to keep people away from it. Then depending on requirement, continue this fence all the way up to the property line with a gate for access but basically staying away from this property as required. This is one large building for dual use you proposed on it, 12,000 square feet, the restaurant is 7,100 and the retail space is 4,900 square feet. Sufficient parking to meet all PB requirements. As far as the setbacks go, they mentioned Thursday night, had a Preliminary Landscaping Plan, which addresses the parking and building, etc. Retaining walls in natural stages of doing natural engineering for the grading and the layout. He was point out how it runs from West to East. Bernie: He and Tom have discussed that. They both agreed that it's a retaining wall to be considered as a structure. Tom suggested they throw it on the table and have a discussion. Chris: could it be considered part of the landscaping? They went on to discuss what type of wall/requirements/landscaping. Dave: The other thing he discussed was a potential traffic study, which may be required for the site. They have set up a meeting with DOT to see what their requirements would be. Denis: We are also trying to align curb cuts and trying to see a way about a traffic study, who is going to attend. Who is the tenant? Only identified as retail space and has enough parking space. What does the Board think of two curb cuts? Chris: Yes-went on to explain what his feeling was on this regarding traffic/intersection, etc. They did a good job. Dave wanted feedback from the Board. Denis: One issue is to keep cars from rolling down the hill/discussion ensued. Denis: This is a good proposal. Vincent: Regarding the retaining wall, what are you going to do on the other side of the wall? Dave: Plant vegetation. Peggy agreed. Discussion continued and mentioned having granite curbs, not concrete which is not allowed and he pointed out on the plan what they intended to do and discussion on sidewalks. Chris gave his thoughts and would like to see something at a higher elevation. Discussion ensued. Dave will submit drainage study as soon as possible, completed and submitted the end of July to the consultant and having a PB Hearing. Tom: Get him the drainage study and he will pass it on. Not enough time and he's not authorized to schedule PB Hearings it's up to the Board. Sandy: Any further discussion? Denis: Would like to see a layout on how it would look regarding lighting and intercom system, look at indirect lighting, various signs, noise, how it affects residential homes Denis is most concerned

about and across the street abutting the property, vegetation, etc. Just letting him know of some of the difficulties that they would encounter. Also need to protect those graves. Wants to make sure they don't create a situation with a retaining wall and end up with something not very pleasant. Dave: Going after natural grading. Discussion continued. Denis: Threw out some ideas: Our engineers over at Edwards & Kelsey, did a full-blown traffic study on Woodbury Avenue. Rockingham County might have the study available. Denis: We would like to see our model updated. The person who might know would be Mike Desrochers Discussion ensued. Dave: Are we in agreement on the retaining wall that as long the wall was on that sub top line in it and it would not be an issue and that we could basically park right up to this (pointed on the map) and if we needed a wall put in that set-back. Jack: Depends on type of material. Tom: Does everyone concur with Jack's interpretation? Chris gave his interpretation on the wall. Dave: Whatever type of wall we put in here that's over a certain height we will need help from a structural engineer designer. Whatever we do we want it to stand up. Denis personally disagrees with Chris. The reason why, if the next client comes in and wants to do the same thing man made within the set back, and they would say you no what you allowed that over there and I would like to do the same thing over here. I think the intent of ordinance was to protect the ordinance and make sure that there are not holes punched through it. If it's man made I think they need a variance. He thinks they can get it. Let's not open up Pandora's box. Discussions continued. Denis: Likes the concept on what they are proposing and they need to work out the details and work within the guidelines of the ordinance. Tom: Wants to be clear that we are sending a clear message to the applicant about the retaining wall and everyone is okay with it. Tom: We're on the same page and the message Tom's hearing is if it's natural we get a free ride and if it's man-made you have to go to DOA. Denis: Asked permission to walk the site at his leisure. Dave said it would be okay with them. Sandy: Do you have all the information you need? Dave: Yes! Thank you gentlemen. Sandy: It's a good proposal.

## **5. Minutes of the meeting of June 18**

Peggy made a motion to accept the minutes and Chris seconded it. Sandy: Any changes? Under "*Not Present*": Remove Chris Cross' name. Sandy: Any other changes? All in favor of accepting the minutes as changed, AYE.

Tom: Updated Zoning Ordinances and passed them out.

### **Discussion/Mike Haberski:**

Tom: Also received a phone call from Mike Haberski, Applevale Construction Co., stating he is very frustrated with certain individuals, agencies, and the State of NH and he is withdrawing his application. Tom asked for it in writing and Mike said he would communicate it in writing by his lawyer within 3-4 days. Chris suggested writing to the state in regard to this. Tom disagreed. Gail suggested sending a note and to keep it general. Discussion ensued on correspondence. Tom Suggested putting this on the agenda and sending Mike a copy for the August 14<sup>th</sup> meeting.

**J.D. Lewis of Renewable Power and Light/Discussion:**

Peggy: Regarding correspondence from Mr. J.D. Lewis. They are an energy company looking to put a biodiesel processing facility into a sight in Newington. The process is very clean, completely self-contained with no emissions or wastewater produced at all. They attached a document outlining what they need and what their technology does/does not

produce in terms of pollution. Tom: J.D. Lewis left voice mail messages. Tom did return his call. His company name is Renewable Power and Light. He wants to go full speed ahead and if he could go ahead and start building the plant. Tom said no, he needs to bring in a proposal. The Board would love to see him come to the meeting. Tom told him he couldn't get on the agenda without written consent of the property owners.

Master Plan on *Housing* to be worked on at the July 24<sup>th</sup> meeting.

**#6) Pending Business**-Needs to be worked on. Chris made a motion to drop item D (*Technical Review Committee*) from the list. Denis seconded it. All in favor, AYE.

Sandy will be gone for the month of September.

Peggy made a motion to adjourn the meeting. Denis: Seconded it. Sandy anyone opposed? None!

**Meeting Adjourned at 9:06 P.M.** *Next meeting is July 24<sup>th</sup> at 6:30 P.M.*

Respectfully submitted:  
Pearl Travis-Sirois, Recorder/Transcriber  
File: NPB Minutes of 7/10/06