

**SHELTON PLANNING & ZONING COMMISSION FEBRUARY 14, 2012**

The Shelton Planning and Zoning Commission held a regular meeting on February 14, 2012 at 7:00 p.m., Room 303, 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present: Chairperson Ruth Parkins  
Commissioner Nancy Dickal (alternate for  
Comm. Elaine Matto)  
Commissioner Joan Flannery  
Commissioner Virginia Harger  
Commissioner Josh Kopac (alternate for  
Comm. Thomas McGorty)  
Comm. Thomas McGorty (arrived 7:15  
p.m.)  
Comm. Anthony Pogoda (via phone)

Staff Present: Richard Schultz, P&Z Administrator  
Karin Tuke, Recording Secretary

Tapes (2), correspondence and attachments on file in the City/Town Clerk's Office and the Planning and Zoning Office and on the City of Shelton Website  
[www.cityofshelton.org](http://www.cityofshelton.org)

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**

Chairperson Ruth Parkins called the meeting to order at 7:05 p.m. with the Pledge of Allegiance and a roll call of attendees. She indicated that Comm. Dickal would be acting as an alternate for Comm. Matto for this meeting and Comm. Kopac would act as alternate for Comm. McGorty until his arrival. She added that Comm. Pogoda would be in attendance via phone and hopefully, via Skype, once a connection has been established.

**EXECUTIVE SESSION: DISCUSSION ON ADA MATTER**

Chair Parkins asked for a motion to enter into an Executive Session with Commission members with an invitation to Staff and Corporation Counsel, Atty. Welch.

**On a motion made by Virginia Harger seconded by Nancy Dickal, it was unanimously voted to go into an Executive Session at 7:07 p.m. with Staff and Corporation Counsel, Atty. Welch.**

Chair Parkins requested a motion to close the Executive Session and reconvene the regular P&Z Meeting at 7:15 p.m. She noted for the record that no votes and no actions were taken during the session.

**On a motion made by Nancy Dickal seconded by Joan Flannery, it was unanimously voted to close the Executive Session at 7:15 p.m.**

**Commissioner McGorty arrives at 7:15 p.m.**

Chair Parkins indicated that Comm. McGorty had arrived and Comm. Kopac would return as the alternate.

**OLD BUSINESS**

**APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE**

Chair Parkins stated that they would stick to the procedure of contacting Staff regarding any Certificates of Zoning Compliance Standards that they had questions on prior to the meeting.

**SEPARATE 6117 - SPLASH, 376 BRIDGEPORT AVENUE, DOG WASH BUSINESS**

Chair Parkins noted that prior to Staff commenting on this, she wanted to say that in reading the notes and listening to the tape of the meeting, she was a little perplexed as to the consensus that this was an accessory use to a car wash. She added that she equated a dog wash to the same thing as a Laundromat and she doesn't see its accessory use to a car wash.

Chair Parkins indicated that she asked their consultant for an opinion and he provided a written comment. She asked Rick Schultz to read the correspondence from their consultant, Tony Panico.

Mr. Schultz read the memorandum dated February 9, 2012 addressed to the Commission regarding the subject proposal to provide a dog wash as part of the Splash Car Wash.

**\*See attached correspondence dated 2/9/12 to the P&Z Commission from Anthony Panico, P&Z Consultant.**

Mr. Schultz stated that the Applicant, Jason Frank, was present and he has provided him with a copy of this correspondence. He stated that the applicant was prepared to withdraw his application and if he chooses he can go ahead and submit a petition to modify that subject PDD.

Chair Parkins stated that, as was mentioned in the discussion they had last month, she thinks that it is a great concept. It is a good idea but they have to be careful when they have Statement of Uses not to set a precedent and just allow things on whim or because they like the idea to change it. She added that is why they have a Statement of Uses set up with PDD's.

Mr. Schultz asked the applicant if he was prepared to withdraw tonight.

**Jason Frank, District Manager, 376 Bridgeport Avenue, Shelton, CT addressed the Commission.** Mr. Frank indicated yes, if the consensus is that's what he needs to do.

Mr. Frank submitted a dated letter of withdrawal for Separate #6117 with his signature to Rick Schultz. Mr. Schultz indicated that a motion would be in order by the Commission to accept the withdrawal of #6117.

Mr. Schultz indicated that Comm. Pogoda (via phone) did receive a copy of the correspondence that he just read.

Comm. Pogoda (via phone) confirmed that he read the letter and heard Rick reading it.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept the withdrawal of Separate #6117.**

Comm. Flannery stated that she was a little confused and asked if Comm. Kopac would not be substituting for Comm. Pogoda because he was on the phone.

Chair Parkins and Thomas McGorty responded that's correct.

Comm. Flannery asked if that was legal.

Chair Parkins responded yes it is.

Rick Schultz confirmed that yes it is.

Comm. Flannery asked if that meant that all the times she was out, she could have just used her phone to call in.

Chair Parkins responded yes, she could have. She added that they are bringing this Commission up to the 21<sup>st</sup> Century. They tried to get Tony on Skype. It was working this afternoon but, unfortunately, they are having some difficulties right now.

Mr. Schultz indicated that he would be trying it again when he gets a chance during the meeting.

Chair Parkins added that they checked this with Corporation Counsel and it is actually done in other communities as well.

**SEPARATE #5935 – ALL SERVICES, 875 BRIDGEPORT AVENUE, BUSINESS**

Mr. Schultz indicated that this is for Shop Rite's proposed nail salon which was tabled from the last meeting. They have a representative from Shop Rite present with the nail salon owner.

Shop Rite representative (name not provided) addressed the Commission and introduced the nail salon owner (name not provided) and stated that he would distribute their menu of services and product list. He added that the salon owner would explain the type of non-toxic chemicals he'd be using for nails.

Chair Parkins stated that she believes that the Commission's question from last time was about their plans for ventilation. She asked if there was any partition off from the actual store.

The Shop Rite representative distributed a floor plan of the store and the salon area.

Chair Parkins asked if they would have an exhaust fan on top of each station.

The Nail Salon Owner (name not provided) responded yes.

Chair Parkins asked if his salon was regulated by the Health Department.

The Nail Salon Owner responded yes. The Shop Rite rep. explained that he also owns Angel Tips in Norwalk, Derby and Seymour so there are three locations. This is a new concept that he wants to try inside the supermarket itself. Wal-Mart has done it and he's seen it at the airport.

Comm. McGorty asked if the Shelton Wal-Mart was doing this. The Shop Rite Rep. responded that he didn't know.

Comm. McGorty commented that he knows that they have one at the Wal-Mart in Milford.

The Nail Salon Owner pointed out the statements on the front page of his hand-out indicating that they do not use acetone polish removers or do acrylic nails. They only use one-time disposable files and buffers. He indicated that the main problem for the nail salon in making odor problems is from acrylic services but they don't do them at this location. That's about 90%. The second problem with the smell would be if they use acetone polish removers so they use non-acetone nail polish removers which don't smell very much. The wax products they use have no odor problems.

Comm. Flannery asked if anyone getting bikini waxes, etc. would be behind a curtain or something.

Chair Parkins responded that the plan shows that they have a private room in the back. She asked the applicant what the dotted line on the plan represented.

The Shop Rite Rep. responded that right now it is an overhang and (inaudible).

Chair Parkins asked if the whole thing was enclosed.

The Shop Rite Rep. responded yes, the whole thing is enclosed (inaudible).

Comm. Harger asked if they were using a glass wall. The Shop Rite Rep. responded yes.

Comm. McGorty asked what they used instead of an acetone based remover.

The Nail Salon Owner indicated that it was one of the products shown in the hand-out.

Comm. McGorty asked what chemicals were in the solvent to remove the nail polish. He indicated that he was just curious what they would use because they are essentially using one chemical to remove another chemical.

The Nail Salon Owner responded that he did not understand what he was asking.

Comm. McGorty asked if they were removing nail polish and what they use to do that now.

Chair Parkins responded that it was probably something non-acetone.

Comm. McGorty commented yes, but it is probably replaced with another chemical.

Chair Parkins commented that she thought this whole conversation was outside of their purview. They didn't question any of the nail salons along Howe Avenue to this degree.

Comm. McGorty responded that this nail salon is in a store where people go food shopping and it is a non-traditional use.

Chair Parkins indicated that it is a permitted use – it is retail in this establishment. It's regulated by the Health Department and the Building Enforcement Officer to insure that the proper ventilation is in place. There are codes that they have to follow. They are just here to determine if this is a permitted use or not.

Comm. McGorty responded that was a good point.

Chair Parkins asked if the other Commissioners agreed.

Comm. Pogoda (via phone) indicated that he had a question. He heard that they would have exhaust fans over each station and wanted to know if it was enclosed inside of Shop Rite.

Chair Parkins responded that it is enclosed. There is a glass enclosure with an entranceway door with a roof above it.

Comm. Pogoda asked if the exhaust would be going to the outside or into the store.

Comm. McGorty responded that there were four exhaust fans shown.

Comm. Pogoda asked if the exhaust fans were on the roof or (inaudible) into the store.

Comm. McGorty responded that they are outside – on the roof.

Comm. Pogoda asked if it was far enough away that it doesn't go out in front of the store where people are walking by.

Comm. McGorty responded yes, it's on the upper roof.

Chair Parkins asked for a motion if there were no further questions.

**On a motion made by Virginia Harger seconded by Joan Flannery, it was unanimously voted to approve Separate #5935.**

**SEPARATE #6154 – RICH FERNANDEZ, 890 BRIDGEPORT AVENUE, BUSINESS**

Mr. Schultz indicated that this was inside Super Stop & Shop for a vitamin specialty shop. They are leasing 810 square feet, 4 employees, with hours of operation 10 a.m. to 6 p.m., 7 days a week. This will be supplementing the bakery, the coffee shop and the pharmacy.

Comm. Harger asked what part of the store they would be in and if they submitted a floor plan.

Mr. Schultz responded no.

Comm. Flannery asked if Dunkin Donuts was going out.

Mr. Schultz responded that he did not know and asked if anyone had been in that store lately and seen any changes.

Chair Parkins responded no.

Mr. Schultz asked if the Commission would like to have more information.

Chair Parkins responded yes, and asked for a motion to table this application.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to table Separate #6154.**

**SEPARATE #6126 – H-3 PET SUPPLY, 350 BRIDGEPORT AVENUE, CAT ADOPTION**

Mr. Schultz indicated that this was held February 4<sup>th</sup> and he e-mailed all the Commissioners about it. He stated that H-3 anticipates finding another location in Stratford. They have no way of knowing when their scheduling dates are coming up but the Feb. 4<sup>th</sup> event was the last one scheduled for this location.

Comm. McGorty asked if Rick went out to talk to the other tenants to see if it was an issue or not.

Mr. Schultz responded that it was not an issue but they are finding another location anyway. The Feb. 4<sup>th</sup> was the last one – it's an after-the-fact. If they come in again though, he will ask them to provide a schedule.

Comm. McGorty asked if any of the other tenants had any complaints.

Mr. Schultz responded no, the timing of it on the weekends worked well for all of the other retailers.

**On a motion made by Virginia Harger seconded by Joan Flannery, it was unanimously voted to approve Separate #6126.**

**SEPARATE #6157 BCS, LLC, 99 BRIDGEPORT AVENUE, GROUND SIGN**

Mr. Schultz indicated that this is the replacement ground sign that he has been e-mailing to all the Commissioners. It is for Shelton Auto Parts and Barry's Luncheon.

**Bruce Butler, Shelton Auto Parts, 99 Bridgeport Avenue, Shelton, CT addressed the Commission.** Mr. Butler indicated that the treatment on this sign on both columns is going to match the canopy columns at the gas station with the brick bottoms and the upper piece with the crown cap on both sides. It is just replacing what is there so the sign size and nothing else is changing. They are going to use the same footings and everything will be identical other than them bringing it up to the standards of the rest of the building.

Chair Parkins commented that she appreciated the large numbers on the top.

Comm. McGorty asked what the size of it was – he doesn't recall it coming before them. He asked about the original Shelton Auto Parts sign that is currently there.

Mr. Schultz commented that 8 x 5 is the max.

Comm. McGorty asked if the size conforms to the requirements.

Mr. Schultz responded yes and added that the drive-through over there has been working.

Mr. Butler commented that the drive through has been working fine and there's not been one issue. There are no stacking issues.

Mr. Schultz stated that Staff recommends approval.

**On a motion made by Thomas McGorty seconded by Joan Flannery, it was unanimously voted to approve Separate #6157.**

**SEPARATE #6156 – ABC SIGN CORP, 680 BRIDGEPORT AVENUE, GROUND SIGNS**

**Larry Borque, ABC Sign Corp. addressed the Commission.** Mr. Borque indicated that Dental Associates of Connecticut is moving into 680 Bridgeport Avenue. The proposal is to rehab the existing ground sign in the driveway area. Also, because they are on a corner property, they are seeking approval for a second sign at the corner of Bridgeport Avenue and Old Stratford Road. He showed two versions to the Commission – one with a full skirt under the sign and another one with just a pole cover.

Comm. Flannery asked if it would block the view for anyone making a turn there.

Mr. Borque responded no, it is far enough back. He asked them to notice in the picture that the DOT sign is much closer to it in the intersection so they don't foresee a problem with driver visibility.

Mr. Schultz added that the Commission recently approved the occupancy of the professional dental offices on the upper floor area. This is the corner lot across the street from the old Blockbuster's which is now the pet store.

Comm. Pogoda asked the approximate location of this on Bridgeport Avenue.

Comm. Harger responded that it is the brick building across from Pet Supplies Plus.

Chair Parkins asked if this monument sign on Bridgeport Avenue was already there.

Mr. Borque responded yes, they are just going to rebuild that one.

Comm. Flannery asked if it would have the street number on top.

Comm. Harger responded that it does.

Comm. Pogoda asked (inaudible)

Chair Parkins responded that they are just changing the look and adding a sign that is going to be on Old Stratford Road so that people coming off Route 8 heading toward Bridgeport Avenue can see a sign on the right hand side.

Chair Parkins asked how far back it would be from the intersection.

Mr. Schultz responded that it has to be five feet from the property line.

Mr. Borque added that it is a lot farther back than that because there are a lot of services in that area such as sewer pipes, electrical lines, and control boxes for the light system so they had to put it all the way back as far as the DOT area.

Chair Parkins commented that it is a traffic controlled area anyway. She commented that they have proposed an Option #1 and an Option #2.

Mr. Borque asked if the Commission had a preference. They have shown the customer a couple of versions of that and they weren't really sure which one they liked. The Commission can decide which one is more pleasing to them – the full skirt or just the pole cover.

Chair Parkins indicated that she liked both of them.

Comm. Dickal commented that she liked Option #1.

Chair Parkins asked if Comm. Pogoda had a copy of the proposed signs.

Comm. Pogoda responded that he did not.

Chair Parkins indicated that he would have to abstain then because he can't really vote on the options. She added that once the Skype thing is working they can show it to him.

Mr. Borque explained to Comm. Pogoda that one of them was a full skirt that is the width of the sign and the other one is just a skinnier pole cover.

Comm. Harger indicated that it was a 20 inch pole.

Chair Parkins added that it is the same exact sign on the top – the difference is what is holding it up – the difference between a 20 inch pole or the full width of the sign (5' 1").

Mr. Schultz commented that Option #2 is more consistent with what the Commission has approved along Bridgeport Avenue, but it is their call.

Comm. McGorty and Chair Parkins liked Option #2. Comm. Flannery added that she like Option #2 because the cars could see around it better.

Chair Parkins commented that she thought of that as well but when you are taking a right onto – it is not going to block traffic.

Comm. Harger stated that she thought Option #2 was too big and bulky.

Comm. Dickal agreed that it was too much to be facing you if you are also watching the traffic – especially if you are unfamiliar with the area and going to this facility.

Comm. Harger stated that when driving in front of Hilton Gardens facing Bridgeport Avenue, she thinks driver's need as much visibility as they can get.

**On a motion made by Joan Flannery seconded by Nancy Dickal, it was unanimously voted to approve Separate #6156 for Option #1 Signage. Comm. Pogoda abstained from voting.**

**SEPARATE #6159 – ABC SIGN CORP., 11 FOREST PARKWAY, GROUND AND DIRECTIONAL SIGNAGE**

**Mr. Larry Borque, ABC Sign Corp. addressed the Commission.** Mr. Borque indicated that Juliska was moving into that facility and they are requesting the Commission's approval for a presence on the current monument sign. Presently, it just has MBI and Lex on there. They had discussions with the landlord and that is why they are seeing two versions on the sheet. Mr. Scinto is agreeable to Option #2 for a full sign on the monument for Juliska.

Mr. Borque explained that on Page #2, because it is a mixed use building with multiple tenants, they are also proposing to put a sign over the loading dock and by the Shipping & Receiving Department.

Comm. Harger asked about the purpose of the one over the loading dock.

Mr. Borque responded that it was to let the truck drivers know that is the loading dock for Juliska.

Comm. Flannery asked about the sloppy script being used and if that was their logo.

Mr. Borque responded yes, it is. Teachers in school wouldn't have approved of that but....

Comm. Harger asked if there were two options on here.

Mr. Borque responded that there are two options because the landlord wasn't sure – at first, he just wanted them to amend the Lex and put their name on the bottom, but then he said it was OK to add a full sign because it was so small. He told them it would be OK for them to add a full sign on the monument right below Lex.

Comm. Harger asked if Juliska was part of Lex.

Mr. Borque responded that he did not know the relationship between the two companies.

Comm. Flannery indicated that she liked the Option #1 – the skinnier one. She didn't like the other one with the big, fat thing in the middle of it but then they are going to put another sign to the left it so it is just going to look sloppy.

Mr. Borque commented that if another tenant moves in that would be a reasonable option for them to have a sign on the unused portion.

Chair Parkins stated that it actually looks like graffiti on the large sign.

Comm. Dickal agreed that it does look like graffiti.

Mr. Borque commented that was their brand though – their logo.

Chair Parkins asked if the Commission was allowed to decide the option of #1 or #2.

Mr. Borque responded no, the customer, Juliska, would like to have the full sign shown in Option #2. It is within the Shelton regulations.

Comm. McGorty stated that it was OK – it was their logo so...

Chair Parkins added that they can't dictate font size or color. It is their name ...

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (3-2) to approve Separate #6159. Comm. Flannery and Comm. Dickal voted in opposition.**

Comm. McGorty asked Comm. Pogoda for his vote.

Comm. Flannery commented that he can't see the sign – he can't vote.

Chair Parkins asked Rick Schultz if he could try to get the Skype working. She added that she wanted to remind the Commissioners that when people have a right to do something before this Commission, personal opinions have to be kept out of it. She understands where they are coming from but that is not the purpose of this Commission. This Commission is to abide by its rules and regulations and if an applicant has a right to do something, they are just here to insure that he is conforming to those regulations.

Comm. Flannery stated that is not the way that the sign was originally set up. The sign was originally approved with the two boxes on top and now (inaudible...)

Comm. McGorty indicated that now another company is moving in there and they would like to have approval to put their name on the sign. It is a multi-tenant building.

Chair Parkins told Comm. Pogoda that they are trying to get him online through Skype.

Comm. Pogoda indicated that he is having problems with the Internet there.

Chair Parkins commented to Mr. Borque that for future reference maybe he should submit these files to P&Z prior to the meetings so that it may be sent to any Commissioners that may not be present.

Mr. Borque responded that they usually do that but there was a little bit of confusion on this one because originally they were led to believe that putting that sign on there would not require an appearance before the P&Z Commission. However, Rick corrected them on that and that is the reason for the delay on this. He apologized for their delay.

Chair Parkins indicated that this motion was going to fail unless they table it.

Comm. McGorty asked if that was because Tony couldn't see it.

Chair Parkins responded that he cannot vote on something that he cannot see.

Comm. McGorty indicated that they should table it then.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (3-2) to withdraw the first motion made to approve Separate #6159. Comm. Flannery and Comm. Dickal voted in opposition.**

Chair Parkins asked if Comm. Flannery and Comm. Dickal were opposing the tabling of this.

Comm. Flannery and Comm. Dickal responded yes. Comm. Flannery added that she is opposed to withdrawing it.

Comm. McGorty stated that he could describe it to Tony Pogoda and then he could vote on it.

Comm. Flannery commented that she objected to that.

Comm. Dickal added that she objected to that too.

Comm. McGorty indicated that he wasn't looking for their approval.

Comm. Flannery stated that she needs to ask the lawyer if that is OK or not.

Comm. McGorty indicated that this is a permissible way to do business.

Comm. Flannery responded no - Comm. Pogoda is not on Skype.

Chair Parkins added that it doesn't need to be on Skype. It would have been helpful ...but telephone conference is acceptable.

Comm. Dickal responded that she understands that telephone conference is acceptable but if this was going to take place, then they should have been notified about it taking place.

Chair Parkins asked what she wanted to be notified of.

Comm. Dickal responded that they should have been notified that there was going to be Skype and telephone conversations. Because it can be described to someone but until they actually see it – when they see it, it may be different.

Comm. McGorty commented that it is as permitted, and stated you are being very subjective. If you don't like the font or something like that...that has nothing to do with...

Comm. Dickal indicated that she was not objecting to the font.

Comm. McGorty asked what she was objecting to then.

Comm. Dickal responded that she wasn't objecting to the font... (inaudible)

Comm. McGorty asked what her objection was to someone having their business name on a sign so that people know where they are.

Comm. Dickal responded that she did not think that this was the place for making an argument.

Comm. McGorty commented that he was just asking a simple question – it's a simple question.

Mr. Borque asked for the Chair's attention and requested that they table this. It would give him an opportunity to redo the drawings and...

Comm. McGorty stated that he was trying to table it but they won't like him un-motion it – which seems counterintuitive as well.

Mr. Borque apologized for interrupting.

Comm. McGorty commented OK, let him vote on it then and they'll see how it falls then.

Comm. Flannery stated no, he absolutely cannot vote on it.

Chair Parkins responded that he absolutely can vote to withdraw and to table it.

Comm. Kopac asked if it was safe to assume that he has no other literature in front of him regarding anything he's voted on tonight.

Comm. McGorty responded he doesn't know – that is not the question right now.

Comm. Kopac indicated that is what he was wondering as a sitting member of the Commission.

Chair Parkins commented that he hasn't voted.

Comm. McGorty stated you're not in it right now so...

Comm. Dickal indicated that is what she was saying. In all fairness to all of them – if this was going to take place, they should have been notified because she just doesn't understand how someone can vote on something that they do not actually visually see.

Comm. Flannery agreed and stated ... (inaudible)

Chair Parkins stated that he hasn't voted on anything that he hasn't seen. He abstained from the last one. Rick Schultz has (inaudible)

Comm. Flannery stated that now you're trying to tell us that he can.

Chair Parkins responded no, she's not.

Comm. McGorty stated that it is a sign, it is not a development. It's a sign – let's put it all in perspective. It is 51" x 22" sign, two over one – OK. It is not a subdivision or big commercial building going in – it's a sign. He stated that they should keep it all in perspective.

Comm. Flannery stated that she has told them her opinion and she doesn't need to say it ten times.

Chair Parkins stated that they have a 3-2 vote and asked if that carries.

Mr. Schultz responded yes, it's a simple majority.

Comm. McGorty commented yeah, OK then...

Chair Parkins asked what the issue here was then.

Comm. Flannery stated that the issue is the phone.

Chair Parkins responded that he is not voting.

Comm. McGorty added that he can abstain and it still carries. He added that he made the motion to accept #6159.

Chair Parkins indicated that Comm. Harger seconded it. She asked for the vote – 3 for and 2 against. She asked Comm. Pogoda if he would be abstaining.

Comm. Pogoda (via phone) responded yes, that's correct.

**On a motion made by Thomas McGorty seconded by Virginia Harger it was voted (3-2) to approve Separate #6159. Comm. Flannery and Comm. Dickal voted in opposition. Comm. Pogoda abstained from voting.**

Chair Parkins stated that the motion passes.

Mr. Borque thanked the Commission and asked the Chair if she would be willing to look at a third sign application this evening for California Closets which is already a business in town. Basically, all they are doing is re-habbing. There is nothing new with the sign as far as size or anything – it is mostly just colors. If they would give him a few minutes, he would pass out sheets of the proposed signage.

Comm. Flannery asked if this was on the agenda.

Mr. Schultz responded no, the Commission has to add it on. It's a regular meeting so it is the Commission's call.

Chair Parkins indicated that she wanted to take a look at to see if it would not be a big controversy otherwise it would have to wait to the next meeting.

Mr. Borque explained that they were taking the existing ground sign and just modernizing, painting it and putting new graphics on there for an existing customer, California Closets.

Comm. McGorty asked if Staff had reviewed this.

Mr. Schultz responded just tonight. It is a very benign proposal.

Mr. Borque added that they also have an awning and they are taking the old company's name off of it and putting California Closets on the awning. They are also putting California Closets on the building – on the wall sign which is actually a sign that they are bringing from their old location.

Mr. Schultz commented that it is an overall net improvement.

Comm. McGorty commented that the size, the set back and everything looks fine.

Chair Parkins agreed and asked for a motion to add this to the agenda.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to add an item to the agenda under Old Business for Application of Certificate of Zoning Compliance, Separate #6165.**

**On a motion made by Joan Flannery seconded by Nancy Dickal, it was voted (5-0 with 1 abstention) to approve Separate #6165. Comm. Pogoda abstains from voting.**

**SEPARATE #6158 – EDWARD WINDSOR, 32 STRAWBERRY LANE, IN-LAW APARTMENT**

**Atty. Dan Marino representing the Windsor's introduced himself to the Commission.**

Mr. Schultz provided some background information and stated that this is a pre-existing, non-conforming situation. This was created before the current zoning regulations. In Shelton, for the benefit of the new members, nothing is grandfathered in. All of the existing ones have to come before the Commission. He sent a location map of 32 Strawberry Lane around for the members to review. He indicated that, most importantly, it does not exceed the 900 square foot threshold, its interconnected and nothing is going to change. There are no modifications associated with it so they are making a pre-existing, non-conforming situation legal. He showed the Commission the floor plan.

Comm. Harger asked if he knew the year the house was built.

Atty. Marino responded 1983.

Comm. Harger asked when the zoning when into effect.

Mr. Schultz responded that it was the early 1990's for in-law. He added that this was being used by a relative so they comply with the current regs – family relative, size and there are no septic issues.

Atty. Marino responded yes, it is used by his client's son.

Comm. Pogoda asked if there was any view of the front elevation.

Chair Parkins responded that this has been established since 1983.

Mr. Schultz asked if this was a colonial home.

Atty. Marino responded yes.

**On a motion made by Joan Flannery seconded by Nancy Dickal, it was unanimously voted to approve Separate #6158.**

Mr. Schultz commented that this would now go on their list of accessory dwelling units.

**SEPARATE #6160 – MICHAEL OSWIECIMSKI, 10 LONGFELLOW ROAD, IN-LAW APARTMENT**

Mr. Schultz commented that this was the same situation. This was built with the house in 1970. Once again, nothing is grandfathered in so it has to go before P&Z. He added that they get these when people re-finance or decide to sell; it eventually makes its way before the Commission. Overall, it is 480 square feet, raised ranch home and this was built initially with the house. He distributed a floor plan and local map for the Commissioners to review. The occupant is the son – a relative.

**End of Tape 1A 8 p.m.**

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6160.**

**PUBLIC PORTION**

Chair Parkins asked if there was anyone in the audience wishing to address the Commission on any item not on the agenda.

Comm. Kopac asked if he was allowed to address the Commission since he isn't allowed to speak.

Chair Parkins responded yes, as a member of the public he would be speaking, not as a Commissioner.

Comm. Kopac stated that was fine. He indicated that he just wanted to say that in his mind he has a general assumption that Anthony does not have any material. He is voting regardless of what he has in front of him because he's asked quite a few questions. For example, on #6156 which just passed. There were votes on it...

Chair Parkins commented that this portion is on any item not on the agenda. She asked if he was going to refer to all the items on the agenda.

Comm. Kopac responded no, but asked if the cell phone sign on the door was a rule before the Commission or is that just....

Mr. Schultz responded that sign is for the general public – so that they won't interrupt other customers that come in. They'd like people to go out in the hallway to make their personal calls because it was getting out of control and the cell phone use was prevalent. People would be taking all their calls inside the office here.

Chair Parkins commented that as a note of reference, Comm. Pogoda does have material. The same package that was sent to all the other commissioners, he received as well.

Comm. Kopac stated that quite a few things that came before the Commission, he was asking questions and those applicants came here the same day so there is a limited chance that he has them.

Chair Parkins responded that she wasn't going to debate this with him but there are certain things that she realizes that he could not vote on and she asked him to abstain from voting. There were certain issues in which he visually could not see and ...

Comm. Kopac commented that regardless of that, they won't even be able to hear him on record tonight with any way that he voted or anything that he stated.

Comm. McGorty indicated that he had a lot of abstentions so there wasn't a lot of discussion or dialogue. He understands what he's saying and he'll have to work that out.

Comm. Flannery stated that she was not happy about it either.

Comm. Dickal added that she was not happy either. She just doesn't think that is right.

Comm. McGorty commented that this is how business is done in other communities and it isn't like they just invented it.

Comm. Flannery responded no, Skype is, not telephones.

Chair Parkins stated that was not true, telephone conference...

Comm. McGorty stated that wasn't true, phones are (inaudible)...

Comm. Dickal responded that she does telephone conferencing at the hospital and at a law firm but this is not...

Comm. McGorty asked why it was OK there – and asked what the difference was.

Comm. Dickal responded that he is ...she commented that she didn't want to discuss it any further because he sees it one way and she sees it another way.

Comm. McGorty stated OK.

Chair Parkins indicated that if there was no one else in the audience wishing to address the Commission on any item not on the agenda, they are going to move on to New Business.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to close the Public Portion of the meeting.**

### **NEW BUSINESS**

**APPLICATION #12-02 SPORTS CENTER OF CONNECTICUT FOR MINOR MODIFICATION OF DETAIL DEVELOPMENT PLANS FOR PDD #30 (DETACHED STORAGE SHED), 784 RIVER ROAD, (MAP 12, LOTS 37 AND 38): ACCEPT, DISCUSSION AND POSSIBLE ACTION**

Chair Parkins asked for a motion to accept this application for discussion.

Comm. Flannery indicated that she would need to see it and asked if this was included in the packet.

Mr. Schultz responded yes, that it was.

Comm. Dickal stated that she didn't get that one either – for the ice skating facility.

Mr. Schultz stated that it was submitted before – in December.

Comm. Flannery commented OK, it just wasn't in tonight's packet – it was in a previous packet.

Mr. Schultz stated that is something that needs to be discussed too - the timing of things because the Commissioners get a lot of stuff, so maybe he should hold off and keep it because he's been giving them items as soon as he gets them so everyone can see them. This is a pretty minor submission anyway but he'll review it.

Comm. McGorty stated that he didn't mind getting something in advance because it gives him more time to review it. He asked Rick if maybe he could highlight on it, a note, as to what meeting it will be on.

Mr. Schultz responded OK and stated that he would make photocopies of that particular area and put it in the new packet to refresh everyone's mind.

Chair Parkins asked if there was any way that they could get the regular telephone on the table instead of this cell phone.

Mr. Schultz responded no, not at the moment. They don't have any phone jacks. He had the Skype working before, so this is unfortunate.

Chair Parkins commented that it is but she's asked for a conference phone because a cell phone is not quite (inaudible)...

Mr. Schultz stated that it was working but there are just internal issues at his home but...

He stated that he had two pieces of correspondence that the Commission received. He read letters from the City Engineer and the Fire Marshal.

**\*See attached correspondence to Richard Schultz, P&Z Administrator from Robert Kulacz, City Engineer dated January 26, 2012.**

**\*See attached correspondence to Richard Schultz, P&Z Administrator from James Tortora, Fire Marshal dated February 8, 2012.**

Mr. Schultz reiterated that both departments were recommending approval with added notes being provided on the drawings. This is a PDD and the Commission expects certain notes on the map. The Engineer, however, knows the scope of this work and it is pretty minor. It's a storage shed but he feels that these issues can be addressed at the Staff level so if the Commission's comfort level is fine then he has prepared a draft motion unless they would like to table this application. It is the Commission's call. He added that the next regular P&Z meeting is March 13<sup>th</sup>.

Comm. Flannery stated that she is more comfortable tabling it because there are so many issues. She is concerned with the tree line and the loss of parking spaces.

Chair Parkins asked if he would be ready to present revised drawings, if it's needed, so that they could present them and... (inaudible).

Mr. Schultz responded yes, absolutely. He isn't in dire straits for tomorrow or... so Staff will get this resolved for the next meeting.

Comm. Pogoda (via phone) asked if this going to be attached to the present facility or be separate from the facility.

Chair Parkins responded that it would be free-standing; it's separate from the building and the drawing was delivered to him in last month's package.

Comm. Pogoda stated that he did not get last month's.

Chair Parkins responded that would be alright because it's been tabled.

Comm. Flannery asked if she was supposed to make a motion to table it right now.

Mr. Schultz indicated that they would just need to accept it for review so no action needs to be taken. The consensus has been not to proceed with it.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #12-02 for review.**

**APPLICATION #12-03 PETITION OF STEVEN BELLIS ON BEHALF OF BSL CT DEVELOPMENT, LLC FOR #52A AND APPROVAL OF DETAILED DEVELOPMENT PLANS (89 UNIT ASSISTED LIVING FACILITY), 708A BRIDGEPORT AVENUE (MAP 29, LOT 26): ACCEPT AND SCHEDULE A PUBLIC HEARING**

**Atty. Steven Bellis, representing Benchmark addressed the Commission.** Atty. Bellis indicated that Mr. Bill Cook is present tonight from Benchmark.

Comm. Pogoda asked which facility this would be.

Mr. Schultz clarified that it was assisted living facility in back of Outback Restaurant.

Chair Parkins added that it is the facility behind Outback that was proposed to be Sunrise Assisted Living.

Atty. Bellis stated that in February 2008, the Commission modified the Statement of Uses for Huntington Woods and allowed the child daycare center, Tutor Time, and the assisted

living facilities. He reiterated that was in February 2008 but it was for a different applicant called Sunrise. This is for Benchmark and all they are doing here is scheduling a hearing for the detailed development drawings because the Commission has already approved the use of the assisted facility back in February 2008.

Comm. Flannery asked if more blasting was going to take place.

Atty. Bellis responded no, this is building. It is already at grade level.

Comm. Flannery asked if that means that there is no blasting.

Atty. Bellis responded not that he is aware of but he'll address that when they have the engineer here, but to the best of his knowledge, no blasting. This is on the top behind (inaudible)...

Mr. Schultz suggested March 28<sup>th</sup> for the public hearing.

Chair Parkins asked why this would require a public hearing if they already approved the use of a facility up there.

Atty. Bellis responded that there were two reasons. One is to approve the detailed development drawings and secondly is that when they approved it the first time, he thinks that it was within 35 feet. There was a property boundary line on Old Stratford Road and they are asking that to be moved to 10 feet.

Mr. Schultz stated that the standards are being modified and they are including parking regulations and these are the detailed development plans.

Atty. Bellis commented that he would agree that they need to have a public hearing. He added that under PDD's they are allowed to do these things, if there is a public hearing.

Chair Parkins responded OK, March 28<sup>th</sup> for a special meeting.

Mr. Schultz added that 3/28 was the fourth Wednesday. March 13<sup>th</sup> is the regular meeting. He reminded the Commission that they have their two zoning regulation amendments and the Stop & Shop gasoline facility on March 13<sup>th</sup>.

Comm. Pogoda asked what the minor modification was for that building because they approved it at the time back in '08.

Chair Parkins responded that's right but there is going to be a line change, changes to the standards, some parking issues and detailed design. She asked for a motion to accept this application and schedule the public hearing.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept Application #12-03 and schedule a public hearing for March 28, 2012.**

**APPLICATION #12-04, AVALON OF SHELTON, LLC FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #60 (POOL AREA, COURTYARD AREAS AND TRANSFORMER LOCATIONS), 185 CANAL STREET (MAP 129, LOT 19): ACCEPT, DISCUSSION AND POSSIBLE ACTION)**

Chair Parkins noted for the Commissioners that Comm. Pogoda does have this information in hand. It was PDF'd to him this morning.

**Grant Jaber, Development Director for Avalon Bay Communities, Radcliffe Park, 185 Canal Street East, Shelton, CT.** Mr. Jaber indicated that tonight they are requesting modifications to four courtyard areas in their building. These courtyard areas are amenity spaces for their residents only. In 2008, the approved plans included a pool/patio with a grilling area in one courtyard and a lawn area in a second courtyard

with some passive recreation including some grills and patio furniture. The front courtyards were primarily just entrance courtyards with walkway connections to Canal Street with some landscaping adjacent to the building.

Mr. Jaber indicated that they are requesting minor changes to these courtyards. He displayed some blown up site plans of the approved conditions as well as the proposed conditions.

Mr. Jaber began with an explanation of Courtyard #1 which is the left rear courtyard on the building. He showed the approved condition for Courtyard #1 which was for a circular walkway that connected back to the Riverwalk with entrances to the building. It had two grills and some patio furniture. Mr. Jaber indicated that they've made it a little bit more elaborate. They've changed the hearth scape a little bit and put two patio areas with viewing stations and furniture that look out to the River. They have made a central focal point with an outdoor fire pit for residents to sit around with some built-in benches. They have kept the two grilling stations with the patio furniture which are very popular with residents. He showed where they have extended two ground floor patios for two resident apartments and the location of landscaping to fill in any voids. He concluded that these were very minor modifications.

Mr. Jaber continued to show Courtyard #2, the pool courtyard, which is also their main courtyard. He explained that in 2008, the approved plan had a FEMA-regulated flood plane that was almost butting up right against their building. Since 2008, that flood way line has moved out closer to the River which allowed them to utilize another space for another amenity area. He showed that space on the modified site plan and explained that they pushed the stairway out a little bit outside of the courtyard and gained sitting areas at the corners looking out to the River. They moved the walkway closer to the pool instead of having it out at the edges which is really valuable real estate for them because of the nice views. Mr. Jaber stated that they extended the resident patios on the ground floor that abut this courtyard and landscaping was filled in where there were any voids.

Comm. Flannery asked about how Mr. Jaber stated that the flood lines changed. She asked what happened with Hurricane Irene last year and if it effected it at all.

Mr. Jaber responded that actually the site did not flood. He was down there the day after Irene and it was OK. For some reason, it did not come up and he was surprised. He indicated that this was a FEMA line and it has moved out.

Comm. McGorty asked where the Riverwalk was located in proximity to that.

Mr. Jaber showed the location of the Riverwalk on the site plan and indicated where the stairway would come out to.

Comm. McGorty asked what happens when they move that out.

Mr. Jaber responded by showing where the stairway would come out to and commented that now (inaudible)...

Comm. McGorty asked if the flood plane line was the current line shown on that drawing.

Mr. Jaber responded by showing where the Riverwalk was located and the recondition of the stairway.

Comm. McGorty asked the approximate distance.

Mr. Jaber responded that it was about 40 to 60 feet. He indicated that it was outside of the Riverwalk easement on their property.

Mr. Jaber explained that they also modified the two front courtyards slightly. He started by showing Courtyard #3 which is the front left courtyard. Previously, the approved plans simply had a walkway connection into the building with landscaping filled in (lawn

and border plants). Now they are proposing that same walkway into the building but they've increased the patio area and included two gas grills for the residents with patio furniture and patio room in the front. They have also modified the way the fence interacts with the courtyard. Before it just came straight across and now they've added some articulation to it for enhancement. Mr. Jaber indicated that they've added a ton of landscaping to this courtyard and removed some of the lawn.

Mr. Jaber stated that their main courtyard where their prospects would park and enter the Leasing Office is primarily the same. They've increased the width of the walkway a little bit and they have included a spot for their community sign. He will be returning for a sign permit later on but it will be built into the fence. They have made minor changes to landscaping treatments in this area. He concluded his presentation and reiterated that there were minor patio, hearth scape and landscape changes to their outdoor amenity areas for enhancement.

Chair Parkins commented that it looked very nice.

Comm. Harger asked what happened with the transformer.

Chair Parkins responded that was on hold. They may be looking to redesign where the transformers are on the side where the Riverwalk is but it is still under negotiation.

Mr. Jaber commented that they are meeting with UI on Thursday morning.

Chair Parkins indicated that if they accept and take action, they would just be taking action on the pool and courtyard areas but not the transformer locations as indicated on the agenda.

Mr. Schultz indicated that he has prepared a draft motion if the consensus is for him to read it. He reiterated that this was for the pool area and the three courtyard areas - two front yards along Canal and one in the rear facing the River.

Chair Parkins confirmed with Comm. Pogoda (via phone) that he received this material and that he has reviewed it.

Comm. Pogoda responded yes, he received it and reviewed it.

Mr. Schultz read the Draft Motion to approve the Minor Modifications of Detailed Development Plans for PDD #60 for P&Z Application #12-40 for the changes to the pool area and three courtyard areas.

**\*See attached Draft Motion entitled Avalon Shelton 3 prepared by Malone & McBroom dated 2/14/12 with all conditions and required notes.**

Mr. Schultz added that when the Commission has a large project like this, they have to look at the final phases of it to see if there is additional landscaping needed, they can direct Staff to advise the Applicant.

Mr. Jaber commented that they believe that they will be back when they have the final landscape drawings to coordinate their landscaping along the rear and side of their building.

Mr. Schultz stated that as a side note, Staff wants to advise the Commission that they have basically been having weekly meetings. There has been a lot going on that will be coming up. They are doing a lot of work in the road but the staging of the precast concrete which will be coming in the structured parking garage will be staged using the City parking lot. These flatbeds will be coming down from Vermont and they've met with Police and Fire to coordinate all the efforts. Most importantly, the Birmingham officers were there so they are aware of it because of the parking issues. Everyone has to work in the Birmingham so all of that is going to be coordinated.

Chair Parkins asked for a motion to accept.

Comm. Flannery clarified that they would be accepting this without the transformer locations.

Chair Parkins responded yes.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept Application #12-04 for review for the pool areas and courtyard areas only (not the transformer areas).**

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Application #12-04 for the pool areas and courtyard areas only.**

## **OTHER MATTERS**

### **APPROVAL OF THE MINUTES: 12/13/11**

Chair Parkins stated that they would table the 12/13/11 meeting minutes with the January 2012 minutes at the next meeting because all the Commissioners didn't have an opportunity to review them.

**On a motion made by Nancy Dickal seconded by Joan Flannery, it was unanimously voted to table the approval of minutes for 12/13/11.**

### **HICKORY ACRES, SECTION II SUBDIVISION: REQUEST FOR ONE YEAR EXTENSION TO COMPLETE PUBLIC IMPROVEMENTS.**

Mr. Schultz indicated that this is because of the continued recession. This is the small subdivision off of Lisa Drive where they had the stone wall issue. This is the little subdivision across the street. He read correspondence from Frank Kavalewsky addressed to himself dated 1/11/12 requesting a one-year extension on the approved Hickory Acres subdivision Section 2 for the completion of public improvements. He stated that a motion would be in order.

**\*See attached correspondence dated 1/11/12 to Richard Schultz from Frank Kavalewsky (sp?).**

Chair Parkins asked how many units they were proposing.

Mr. Schultz responded three and it has a little cul-de-sac coming in.

Comm. Pogoda asked if (inaudible) would be developed.

Chair Parkins responded yes.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve the request for a one year extension for Hickory Acres, Section II Subdivision.**

### **BERKSHIRE COMMONS CONDOMINIUMS: REQUEST FOR RELEASE OF SEDIMENT & EROSION CONTROL BOND AND SITE RESTORATION BOND.**

Mr. Schultz indicated that this is the four unit condominium on Murphy's Lane. He asked if any of the Commissioners had been up there because it really came out nice and everything is stabilized. Mr. Schultz stated that they have two separate bonds. The first is for Sediment and Erosion Control which is a \$5,000 cash bond. He read a request letter from Mucci Construction requesting the release of the Sediment & Erosion bond of \$5000 be released for the Berkshire Commons Application #05-41. The letter states that the above referenced site was inspected on 2/10/11 and site improvements have been satisfactorily completed.

Mr. Schultz restated that the entire site has been stabilized. They've had great weather and all of the seed germinated. He went with the Wetlands coordinator because the brook follows Murphy's Lane down there. Staff recommends the release of the \$5000 Sediment Erosion Control bond.

Mr. Schultz stated that the second bond is for the Site Completion/Site Restoration. Mucci Construction submitted a letter read by Rick Schultz requesting that the \$10,000 Performance Bond for the site known as Berkshire Commons #05-41. The letter indicated that the site was inspected on 2/10/12 and site improvements have been partially completed. The landscaping has not been installed. Staff recommends that it not be released but reduced to \$5000. He suggested that the Commission members take a ride up there. It is located on the corner of Murphy's Lane and River Road, across from Tanglewood Condominiums.

Comm. Pogoda asked for clarification that Rick was recommending the Site Restoration Bond be reduced to \$5K from \$10K because there was additional landscaping work to be completed.

Chair Parkins responded that was correct.

**On a motion made by Thomas McGorty seconded by Nancy Dickal, it was unanimously voted to accept the request for release of the Sediment & Erosion Control Bond (\$5K) and reduction of the Site Restoration Bond from \$10K to \$5K for Berkshire Commons Condominiums.**

#### **PAYMENT OF BILLS**

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve the payment of bills, if funds are available.**

#### **STAFF REPORT**

Mr. Schultz reviewed items from the P&Z Staff Report given to all Commissioners dated 2/14/12 including ZBA Agenda items, Zoning Subcommittee, DSC, Zoning Enforcement issues, Planning Issues and Residential Constructions.

Comm. Flannery and Comm. Dickal stated that they were concerned about the blasting taking place from the construction of the Cranberry Estates that is causing shaking in the areas nearby. Mr. Schultz indicated that they should continue to report those issues to the Fire Marshal's Office because he handles it.

**\*See attached Shelton P&Z Staff Report dated February 14, 2012.**

#### **REMARKS FROM CHAIRMAN & SUBCOMMITTEE CHAIRS**

Chair Parkins indicated that she wanted to share some good news with the Commission regarding a Proclamation from the Governor that she received a while ago. The proclamation has to do with Shelton's selection as a 2011 Celebrate Connecticut Honoree. She read it aloud and added that Planning and Zoning has played a big role in the development and revitalization of Downtown. She wanted everyone to know that she received this correspondence from Governor Malloy. A ceremony was held in Hartford with the Mayor and several others who went there to receive the honors.

#### **End of Tape 1B 8:40 p.m.**

Chair Parkins showed the Commission a rendering of the detail for the fence to be erected for the Automotive Storage Facility on River Road. Mr. Schultz added that the neighbors are very appreciative of it for buffering and it will go down the right side of the auto storage facility.

Chair Parkins commented about an ongoing issue that some of the Commission is familiar with regarding the White Hills Eagles RC Flying Club that fly electric and gas

model airplanes near Stern's Farm. She stated that they sent her some correspondence back in October that she was unable to address during the holidays regarding a request for modifications to their approval.

Chair Parkins explained that the Club has lost significant membership due to the limited flying time and the restrictions imposed on their model aircraft. They have requested an expansion of their flying time for all models of aircraft for the benefit of their working members who cannot fly during 9 a.m. to 6 p.m. for electrics and 9 to 1 p.m. for gas models. The current ruling for the Club for gas models is 9 a.m. – 1 p.m. M-F and weekends from 10 a.m. – 12 p.m. The electric models which make no sound were limited to 4 p.m. and later changed to 6 p.m. Right now, the current ruling for the electric models can fly until 6 p.m. and the gas models can fly until 1 p.m. during the weekday. The Club is looking to expand the times to 7 p.m. or 8 p.m. during the weekdays for the summer. The Commission could restrict it for only Memorial Day through Labor Day.

Comm. Flannery asked if they didn't need a public hearing for that.

Comm. Dickal indicated that she thought so too because it might be an issue for people living in that area.

Chair Parkins asked Rick Schultz if they would need to do that.

Mr. Schultz responded that the Commission has to determine if this substantial – normally when you increase the hours, it is.

Comm. Dickal stated that obviously it has been an issue with the neighbors in the past.

Chair Parkins commented that it was two neighbors. They had a public hearing and most people came out in favor of it.

Comm. McGorty stated that the Police went out and conducted sound checks. He asked what the result of that had been and if it had violated the noise ordinance.

Comm. Dickal asked if the noise was just with the gas models.

Chair Parkins responded no, not even with the gas ones.

Comm. Dickal commented that she thought they said the gas models were much louder than the electric.

Comm. McGorty responded yes, that's true, but the electric are almost silent.

Chair Parkins added that the gas models are louder but still do not exceed the ordinance.

Comm. Dickal asked what the decibel level was.

Chair Parkins responded that it was not stated in this letter but it does not exceed the decibel limit. It is in compliance with the established...

Mr. Schultz stated that he wanted to check this with Corporation Counsel because he didn't want them to do something and then have a civil lawsuit because the neighbors are involved. He wants their basis to be on solid ground.

Chair Parkins stated that she just wanted all the Commissioners to know that she received this letter in case they are contacted. The point is that if they continue to lose membership than they cannot pay to lease this property and they'll go under. She asked Rick Schultz to check with Corporation Counsel.

Chair Parkins stated that one of things that prompted her to conference and/or Skype – she had originally asked Rick to just look into the possibility of doing this – was that in reading through the minutes of the last meeting, she had felt that if Tony Panico, their consultant, had partaken in the discussion about Splash Car Wash they could have

prevented that applicant from having to come back tonight. She added that Tony would have immediately known that was not an accessory use and would have advised the Commission as such at that time. She asked Corporation Counsel if it was allowable to have people call in and he said yes, it is done in other communities. Chair Parkins stated that it is not intended for a Commissioner who just wants to stay home and call in. But if someone is down in Florida, as Tony Panico spends his winters now, and the Commission feels that his guidance is needed, they can ask him to sit in for the meeting. The same would hold true for the other Commissioners who are away and want to call into the meeting. They should have the right to do that.

Comm. Flannery asked why the Consultant didn't phone in tonight.

Chair Parkins responded that the Consultant was not needed for tonight's meeting. There was no reason for him to sit in.

Mr. Schultz added that Mr. Panico has started to increase the amount of time that he's spending in Florida.

Chair Parkins added that the same holds true for Commissioner Pogoda who is semi-retired but he is available, and if he wants to sit in then he has that option. Hopefully, they will get the Skype working properly.

#### **ADJOURNMENT**

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to adjourn the meeting at 8:50 p.m.**

Respectfully Submitted,

Karin Tuke, P&Z Recording Secretary