

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION**

**Public Hearing #1595  
July 26, 2011**

**\*\*\*\*\* Draft Document – Subject to Commission Approval \*\*\*\*\***

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 7:02 P. M. by Chairman Ouellette.

**ESTABLISHMENT OF QUORUM:**

A quorum was established as four Regular Members (Devanney, Ouellette, Thurz, and Wentworth) and one Alternate Member (Zhigailo) were present. Regular Member Gowdy was absent. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Following in accordance with the service rotation schedule Alternate Member Zhigailo would also join the Board regarding discussion and action on all Items of Business this evening as well

Also present was Town Planner Whitten.

**GUESTS:** Selectmen Richard Pippin; Kathy Pippin, Board of Finance.

**ADDED AGENDA ITEMS:** None.

**PUBLIC PARTICIPATION:**

Chairman Ouellette questioned if anyone in the audience wished to comment; no one requested to speak.

**APPROVAL OF MINUTES/July 12, 2011:**

**MOTION:** To APPROVE the Minutes of Public Hearing #1594 dated July 12, 2011, with the following amendments:

Page 7, **CONTINUED PUBLIC HEARING: Newberry Road Enterprises/Steve Dearborn** – Special Use Permit for a Modification to Volume Reduction Facility at property located at 68 Newberry Road, East Windsor, CT. [M-1 Zone; Assessor’s Map 93, Block 19, Lot 6], 4<sup>th</sup> Paragraph, First Sentence: “Commissioner Wentworth ~~questioned if they~~ **STATED IF HE** had a trench and Mr. Dearborn dumped millings in.....”

**Devanney moved/Thurz seconded/VOTE: In Favor: Unanimous**

**RECEIPT OF APPLICATIONS:**

Chairman Ouellette acknowledged receipt of the following Application:

1. Application of Mitchell Property Group, LLC for Modification of Approved Site Plan for existing Contractor's Storage Yard located at 118 Wapping Road. [M-1 Zone; Map 27, Block 65, Lot 32].

**CONTINUED HEARING: Newberry Road Enterprises/Steve Dearborn – Special Use Permit for a Modification to Volume Reduction Facility at property located at 68 Newberry Road, East Windsor, CT. [M-1 Zone; Assessor's Map 93, Block 19, Lot 6. (Deadline to close hearing extended to 7/26/2011):**

Chairman Ouellette read the Hearing description. He noted the deadline to close the Public Hearing had been extended by the Applicant to tonight, July 26<sup>th</sup>, 2011. Appearing to discuss this Application was the Applicant, Steve Dearborn, owner of Newberry Road Enterprises/68 Newberry Road.

Commissioner Zhigailo requested to clarify statements made by herself and reflected in the Minutes of Public Hearing #1594 on July 12, 2011 regarding this Application. Commissioner Zhigailo READ FOR THE RECORD document entitled "Disclosure and Amendment to the Minutes of Meeting #1594, Tuesday, 12<sup>th</sup> July, 2011:

- 1) Page 7: I mentioned I had visited the Newberry Road site for inspection. I believe it was Wednesday, July 6<sup>th</sup>. I would like to disclose for the record I was given an overview of the property and its operation by Mr. Dearborn. I returned to the property on Friday, July 8<sup>th</sup> during a rain event, (actually after a downpour). Mr. Dearborn was not present at that time.
- 2) In reference to page 12 of the Minutes during comments on Pervious vs. impervious on the "millings" issue. The minutes reflect I felt it was "limited". To clarify or expand on that....I have to rely on our guidelines, engineering notes and comments, the Planners guide definitions, and basically advice of more qualified persons and professionals in this area. I conclude millings are more IMPERVIOUS than pervious. I apologize for the confusion when I said I felt it was "limited" but I raised my hand during the straw vote when asked if I thought it was pervious.

My opinions, and observations, are what they are but I realize logically I need to weigh in on expert or more knowledgeable recommendations.

Respectfully submitted, Marti Zhigailo.

Chairman Ouellette noted Mr. Dearborn's engineer has submitted plans carrying a revision date of 7/20/2011 which reflect the following items:

- Hours of Operation as discussed during the previous Meeting
- Buffer shown as 50' on the west side of the property. Mr. Dearborn indicated the 50' buffer was the distance on the back side to the bottom of the pile; he reported it didn't mean the driveway around the pile. Mr. Dearborn indicated 38' was the distance on "this" side to the pile
- 3 posts (to define the limits of the piles)
- No fence (along Newberry Road).

Chairman Ouellette recalled the Commission had asked Mr. Dearborn's engineer to continue discussion on the issue of impervious vs. pervious coverage, and to revise the Zoning Table on the plans. Chairman Ouellette questioned if Town Planner Whitten could confirm that the revisions had been made to the Zoning Table? Town Planner Whitten suggested the "area of improvements" is shown as 5.75 acres in the coverage calculation table, but she noted nothing has been shown on the plan for the "operation area". Mr. Dearborn suggested the "operation area" is the area the Nobles were using around the metal building. Mr. Dearborn advised the Commission - don't ask any questions the engineer should be answering; he couldn't be here tonight; it's 5.7 acres; that's what it is. Town Planner Whitten suggested that based on her calculations it appears to include the pre-existing area. Mr. Dearborn countered the expansion should be above and beyond the pre-existing area.

Town Planner Whitten indicated the Zoning Table shown on the plans reflects an "area of millings (pervious)" of 4.92, which would be part of the "area of operation". "Lot coverage-buildings" is shown as 0.2%; "impervious surfaces and millings" are shown as 5.12 acres or 19.7% of the site. (Total site is 26 acres). Town Planner Whitten indicated she still disagrees with the amount of pervious area.

Chairman Ouellette referenced page 91 of the Zoning Regulations, Chapter IX – Administration and Enforcement, Section 900.1 (GENERAL), subsection j: "An incomplete application or an application submitted without the requisite fee shall be denied if such application is not completed or fee paid before the commencement of the public hearing." Chairman Ouellette suggested that's a statement of fact. The Commission has heard numerous opinions from the Applicant and the engineer of what the definition of pervious or impervious coverage is. The Commission has been provided with opinions from other planners regarding the same issue. Chairman Ouellette suggested if the Commissioners truly feel this is an impervious area the Application is incomplete, and the Commission can't go forward. If the Commission can get past that question the Commission can then talk about the other issues – the set back distance, etc. Chairman Ouellette queried the Commissioners as to who considered the area IMPERVIOUS; Chairman Ouellette and Commissioner Zhigailo raised their hand in response; Commissioners Devanney, Thurz, and Wentworth did not.

Town Planner Whitten reiterated for the Commission this has been defined as impervious coverage in the drainage calculations. Commissioner Thurz referenced the 2007 Application; Town Planner Whitten reiterated that no millings were proposed in the 2007

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Application. That issue is part of the Violation citation against Mr. Dearborn. There were no changes in grades proposed in the 2007 Application. Town Planner Whitten suggested she couldn't understand how the Commission could see this any other way.

Mr. Dearborn reported that originally "this" was to be gravel and according to "Whitten" it would be impervious; it wasn't discussed about the stripping of top soil but we all know it's a common practice; it's a thing you do. Town Planner Whitten suggested the common practice must be shown on the plans.

Commissioner Devanney advised Chairman Ouellette she didn't realize he was taking a vote; she thought he was going to poll each Commissioner. Commissioner Devanney indicated she was reading material and didn't realize a vote was being taken. She asked if the vote could be taken again?

Chairman Ouellette questioned Commissioners Thurz and Wentworth if they were comfortable with a re-vote? Commissioner Wentworth replied affirmatively, suggesting if that was what the Commission wanted to do so Commissioner Devanney can do her vote. The vote then became Chairman Ouellette and Commissioners Devanney and Zhigailo feeling the millings were IMPERVIOUS coverage, while Commissioners Thurz and Wentworth made no response to the question.

Mr. Dearborn wanted to discuss the issue further. He suggested that nowhere in the Regulations does it list what is impervious; some towns do; our Regulations are vague. As far as Mr. Dearborn is concerned shame on us. Mr. Dearborn felt that everything he is reading is opinions. Originally she (Town Planner Whitten) said gravel is impervious and now she says it's not. They did a scientific test. How much water has to go through the millings for it not to be pervious? If one bottle of water goes through it does that make it pervious? Mr. Dearborn reiterated that our Regulations are vague; it's hard to understand; it wasn't discussed; we know we're going to strip the top soil. Mr. Dearborn suggested his feeling is he is the only one with scientific proof; everyone else is an opinion. Mr. Dearborn indicated his stuff wasn't rolled; it was put down in chunks and then rolled; the water was rolling off the fields.

Town Planner Whitten questioned what was happening to the water on the asphalt? Mr. Dearborn reported it was running off. Mr. Dearborn responded that water does go through it; they did the test; everyone else has an opinion. Town Planner Whitten indicated Town Engineer Norton was unable to witness the test. Mr. Dearborn indicated he hired a professional; are you going to call him a liar like you did with George Logan? Town Planner Whitten clarified she didn't call George Logan a liar. Mr. Dearborn indicated he wasn't going to argue about it any more; how it falls tonight is the way it goes.

Town Planner Whitten questioned if Mr. Dearborn had read her memo? Mr. Dearborn replied he had read some of it. Town Planner Whitten questioned if Mr. Dearborn had read the reference to the Applications approved for Beebe Landscaping? Mr. Dearborn

suggested they had gone through this before; it's 50' on the back side. The reason the other guys are doing that is they are in the middle of a residential area; he is in an industrial park; he has industrial buildings around him. What we discussed the last time is the way he is holding her vote on the impervious coverage. Mr. Dearborn challenged Town Planner Whitten that she did a hell of a job finding other people. Town Planner Whitten clarified Mr. Dearborn had mentioned Beebe at the previous meeting; Mr. Dearborn said he did not.

Town Planner Whitten suggested she is adamant that the Commission vote on the issue of impervious coverage. The outcome will affect every application coming before the Commission from now on; this decision is precedent setting.

Chairman Ouellette reviewed various options regarding the conclusion of this Public Hearing. He noted the Commission could ask Mr. Dearborn to extend the Public Hearing yet again to continue debate, or the Commission could deny the Application without prejudice so Mr. Dearborn can come back with another Application.

Chairman Ouellette queried the audience for comments.

**Kim Dearborn (wife of the Applicant):** questioned why the fees had been reduced; is this about fees or are we talking about the environment? She understood the issue of setting precedent moving forward, but this is an old application.

Town Planner Whitten suggested the precedent had been set because the previous applications had paid (impervious coverage) fees. The fee has been reduced for Mr. Dearborn because she determined the pre-existing area shouldn't have been included in the impervious fee calculations. Chairman Ouellette questioned Mrs. Dearborn if her question had been answered? Mrs. Dearborn indicated she didn't understand why the Commission isn't changing the Regulations? Chairman Ouellette clarified that changing the Regulations now wouldn't affect this Application.

**Gerry Wilcox, 50 Newberry Road:** reported he has a copy of the 7/21 plan; Chairman Ouellette clarified the most recently revised plan carries a revision date of 7/20. Mr. Wilcox reported he is south of this property. He wanted to make it clear to the Applicant that he wishes the best for him; he isn't here tonight to bother his neighbor. Mr. Wilcox suggested he wants the Commission to look at the Regulations and follow them. Mr. Wilcox reported he is putting up a building. He referenced Section 814.3 of the Regulations (Earth Excavation); he suggested that's not arbitrary. There is a note on the plans that Mr. Dearborn will be excavating; he will be screening top soil and occasionally hauling it off site. The screener, by the Regulations, should be 200'. Mr. Wilcox indicated he had submitted a letter from an expert witness that the Regulations must be followed unless it's in the best interest of the Town, or the adjacent property owner allows him to come closer to the property line. (The buffer) must be 100'; Mr. Wilcox referenced page 89, if someone is just temporarily stockpiling it must be 100' from the property line. If he (Mr. Dearborn) wanted to stockpile for a few months and then

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remove it he (Mr. Wilcox) could agree to that but this is going to be permanent. Mr. Wilcox indicated he will be putting in a building; his application is before the Wetlands Commission and he will be coming to this Commission. The Town can't modify the Regulations unless it's a special condition. Chairman Ouellette clarified the correct term would be a waiver, which would require a  $\frac{3}{4}$  affirmative vote of the Commission, but the Applicant must ask for the waiver.

Commissioner Wentworth referenced the plan and suggested there is a whole pile of dirt in "this area". Mr. Wilcox suggested he has a Permit to put that dirt there. Commissioner Wentworth questioned what did you do to make that acceptable? Mr. Wilcox suggested he kept it 100', actually 120', back, and there is a row of maple trees around his property, and he's been here 35 years. Chairman Ouellette questioned where Commissioner Wentworth was going with his question? Commissioner Wentworth indicated if it's 100' back he wouldn't make it an issue. Mr. Wilcox suggested he is on the brink of signing for a 130,000 square foot building and his major concern is the distance from his property line. The applicant has ample ability to move the stockpile; he has 26 acres; he could move it closer to Newberry Road. Chairman Ouellette suggested the Applicant may have the room but apparently the way he's presented it is the way he wants to do his operation. Mr. Wilcox indicated he was going to stand by his guns for the 100'.

Mr. Dearborn countered that the Regulations Mr. Wilcox was stating have to do with earth excavation, a gravel pit operation; he isn't that; he's a contractor's storage yard. Chairman Ouellette indicated Mr. Dearborn raised a good point; Chairman Ouellette suggested he was struggling with the definition for contractor's storage yard – it's not clearly defined in the Regulations either. Chairman Ouellette questioned what Mr. Dearborn considered a contractor's storage yard? Mr. Dearborn referenced Beebe, Herbie (Holden) in his yard, Boutin in Windsorville; you work out of a garage and store your stockpiles. It isn't a gravel pit where you're digging material out of the ground to process or make gravel or stone or anything like that. Chairman Ouellette questioned if he scraped the earth to get topsoil – earth excavation; you're digging. Mr. Dearborn indicated he scraped it off to make the yard; every building we build in Town we strip the topsoil and pile it up; they/we all do it; it's customary to do so; he isn't excavating like a gravel pit. Chairman Ouellette noted under the Earth Excavation Regulations it clearly says that no topsoil shall be removed or sold; he questioned if that topsoil on Mr. Dearborn's site is for sale? Mr. Dearborn replied that it was; what else would he do with it? Town Planner Whitten suggested that's why she referred to Section 814.3; Mr. Dearborn's Application doesn't totally fit into the Earth Excavation Regulations but he is excavating topsoil on site and stockpiling it and screening it, and those activities are similar uses to the Section 814.3. Mr. Dearborn responded - everybody has a screener, everybody has to screen what they get.

Chairman Ouellette questioned how would he draw a line to a contractor's storage yard? Town Planner Whitten questioned – does Boutin screen topsoil in his contractor's yard? Mr. Dearborn suggested that's for the Commission to find out; he's isn't a stool pigeon.

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Town Planner Whitten suggested this Application falls between the two uses, and Mr. Dearborn has the room to meet the 100' set back.

Chairman Ouellette queried the audience for any additional comments; no one requested to speak.

Chairman Ouellette questioned Mr. Dearborn if he had any other comments; Chairman Ouellette advised Mr. Dearborn he couldn't take any further comments from him after we close the Public Hearing. Mr. Dearborn suggested – we agreed on 50' and that's what he is sticking to; he's also sticking to the 38'. I'm not moving this line out 100'; do you know how much 100' is? He is not moving the line out closer to the street, or the cornfield. If he had to move all the mulch he would be within the area – 210' x 210' – for the General Permit with DEP for the recycling operation. Chairman Ouellette questioned that he couldn't move the recycled material out of that box? Mr. Dearborn replied that he can't put millings and top soil in there. He reiterated he isn't a gravel pit or an excavation operation; he's stripping the topsoil like everyone else does. To say he's in the same category as a gravel pit is absurd. Mr. Dearborn reported he's stripping topsoil like everybody does when they go onto a construction site and do what they have to do; he reiterated he isn't a gravel pit.

Mr. Dearborn questioned that when you close the Public Hearing what happens next? Chairman Ouellette indicated the Commission will close the Public Hearing, the Commission can discuss the Application amongst themselves, and they could deny the application because it's incomplete. Mr. Dearborn questioned why is it incomplete? Chairman Ouellette suggested that in Staff and the Commission's opinion if there is over 5,000 square feet of impervious area there is a certain fee associated with the Application. Town Planner Whitten referenced the Regulations, noting the fee is \$240 (plus \$60 State Fee) plus 0.15/square foot of impervious coverage over 5,000 square feet. Chairman Ouellette questioned how long that Regulation has been in place? Town Planner Whitten indicated she has been here for 7 years and it was in place when she came; she didn't write the Regulation. Chairman Ouellette questioned that the 5,000 square is calculated outside the original area? Town Planner Whitten replied affirmatively. Chairman Ouellette reiterated that if the fee isn't paid then the Application isn't complete.

A recess was requested.

**MOTION: To TAKE A FIVE MINUTE BREAK.**

**Devanney moved/Thurz seconded/VOTE: In Favor: Unanimous**

The Commission RECESSED at 7:50 p.m. and RECONVENED at 7:58 p.m.

Chairman Ouellette noted the Public Hearing is still open. Mr. Dearborn requested a clarification; he questioned if the Commission takes another vote where does it go from here? Chairman Ouellette suggested the next step would be Mr. Dearborn's. **Chairman**

Ouellette questioned if this Application could be completed unless Mr. Dearborn proves to Town Staff and the Town Engineer the impervious coverage issue. Mr. Dearborn questioned if the Commission takes another vote and it isn't in his favor and there is a fee to be paid which hasn't been paid – the last time when he left it was 4:1 and when he came back this week there was no fee to be paid, and he thought the Hearing would be over. If you take another vote and it goes against him, and the fee isn't paid, what's the next step? Town Planner Whitten indicated if they take a vote and it's denied you would have to submit another Application to the PZC. Chairman Ouellette indicated if the Application is Denied Without Prejudice are there some fees that he's already paid that could apply to another application? Town Planner Whitten indicated Mr. Dearborn has paid for the initial Application Fee minus \$30 of the State Fee. Chairman Ouellette questioned if it's Denied would he have to pay administrative fees again? Town Planner Whitten indicated if it's Denied Without Prejudice we have, in the past, allowed the applicant to come back without paying another Application Fee. Chairman Ouellette questioned that the Town would have to advertise for another Public Hearing? Town Planner Whitten replied affirmatively; if Mr. Dearborn would pay the fee and agree to the 100' set back he would be done.

Chairman Ouellette noted that normally an application doesn't get to this point. In this case there was a disagreement during the application process. Town Planner Whitten clarified that normally we wouldn't allow an application to be heard without a fee being paid, but because of the disagreement we allowed the Applicant and his engineer to come in to discuss their point. Mr. Dearborn indicated he understands that but this impervious millings, there is no proof, or what is black and white; the office staff aren't his judge and jury and executioners; he would rather be in the hands of the jury rather than a judge. Mr. Dearborn questioned Chairman Ouellette that he was saying he (Mr. Dearborn) is to pay \$2100 or if he allows a vote he's back to square one?

Chairman Ouellette noted that on the west side there is a neighbor who has an issue, and if the pile were moved 100' away this would be approved and you would be done and you would be out of here. Mr. Dearborn suggested that's his (Mr. Wilcox's) interpretation, and 100' is based on a gravel operation and he's not in a residential area. Mr. Dearborn indicated that in talking to his other half he will pay the \$2100 but he won't go for moving the buffer to 100'; originally they agreed to 50' and 38' but he will pay the fee.

Chairman Ouellette noted the set back is different for the Volume Reduction Facility operation. If you were to agree that the set back associated with the excavation activity - if the millings pile were located in "that" area? Mr. Dearborn felt the 100' set back only applies to the top soil. Town Planner Whitten clarified that the Regulations don't discuss asphalt but it does talk about it in the Volume Reduction Facility Regulations. Chairman Ouellette queried what was the minimum setback for the Volume Reduction Facility? Town Planner Whitten indicated there isn't a minimum set back in the Volume Reduction Facility Regulations, which is the reason for comparing the operation to an earth excavation operation. Chairman Ouellette questioned Mr. Dearborn if the stockpile were

switched would it work for you? Commissioner Zhigailo felt that's a lot of work. Mr. Dearborn reiterated he agreed on 50' before, it's up to the Commission; the millings can be 50', what's the difference for the top soil? Chairman Ouellette indicated Mr. Dearborn had submitted a plan which you feel should be 50' and the Commission could decide on 100' and you must live with it. Mr. Dearborn reiterated he agreed to go to 50'.

Commissioner Thurz questioned Town Planner Whitten if she was concerned with noise from the screener? Town Planner Whitten replied – yes, and dust; in the Earth Removal Regulations the soil pile is a temporary soil pile. Chairman Ouellette questioned that it says it shouldn't be removed? Town Planner Whitten indicated she was saying it's a similar use but not the same use but the stockpile is set back to not intrude on the neighbors and the material is to be returned to the site after temporary storage. Mr. Dearborn suggested this corner next to Wilcox is wetlands so he can't do anything; he can't build or do anything. Commissioner Devaney felt the 100' set back distance seemed extreme.

**Gerald Wilcox, (50 Newberry Road)** requested to speak again. Mr. Wilcox indicated he is baffled by the Applicant saying that area is wetlands; there are no wetlands there. He suggested he is trying to be reasonable and trying to respect his neighbors, and cited Section 814.3 regarding the issue of impervious vs. pervious coverage. He (Mr. Dearborn) has enough land - if the applicant comes in and only has 2 or 3 acres - but this Applicant has over 26 acres of land. He (Mr. Dearborn) needs to run the screener for the top soil, it will blow dust on buildings he (Mr. Wilcox) will be putting up. The height of the piles, where he (Mr. Dearborn) runs his machinery, the dust will fly over his buildings; move the top soil and asphalt – switch it with the corn.

Chairman Ouellette indicated he understood the top soil with the dust issue but he didn't understand the concern with the asphalt. Mr. Wilcox indicated it will be 35' high; he (Mr. Dearborn) needs a conveyor belt to get to it; his (Mr. Dearborn's) original Permit needed 100'. Chairman Ouellette questioned is it the issue of the height or the distance? Commissioner Thurz questioned Mr. Wilcox – didn't you do that for 35 years on your property? Mr. Wilcox replied affirmatively but noted he (Mr. Wilcox) stayed 100' from the property line. Commissioner Zhigailo suggested to Mr. Wilcox - you may not have been here for the other meetings, he (Mr. Dearborn) wasn't required but was asking for 35' on the plan. Commissioner Wentworth questioned Mr. Dearborn - you said the highest you would get is 20'? Mr. Dearborn reiterated the highest now is 2 tractor trailers, which is 26'; we went to 35' because the Fire Marshal said we could go to 65' so I said make everything 35'. Chairman Ouellette noted if the plan is approved you have the authority to go to 35'. Commissioner Wentworth questioned Mr. Wilcox – is there a height on these that you are looking for? Mr. Wilcox indicated 25' would be reasonable.

Mr. Wilcox suggested he would like to impress on this Commission the area where the stockpile is being done is “this” close to the property line where there is other land. It's a no brainer; move it over; he has plenty of room; move the stockpile over 100'. Mr. Wilcox indicated they have a green zone around here also. Chairman Ouellette

questioned Mr. Wilcox that he would like to see a 100' buffer adjacent to his land as well as a maximum height of 25' for the stockpiles? Mr. Wilcox replied he felt that was fair. Mr. Wilcox indicated he suggested that for every foot the Applicant dropped the pile he could move the buffer in (from the 100') – if he drops the 35' (pile height) to 25' he could go to a 90' buffer. The Applicant needs to keep the excavation back from the property line.

Town Planner Whitten questioned Mr. Dearborn if it would be possible to move the amesite and top soil pile to the north and switch the wood storage area? Mr. Dearborn replied - No. Town Planner Whitten questioned - why? Mr. Dearborn indicated – I won't do it. Town Planner Whitten questioned – why not? Mr. Dearborn suggested – it doesn't make sense. Town Planner Whitten questioned – is it feasible? Mr. Dearborn replied – No. Town Planner Whitten suggested the soil stockpile is almost gone, the amesite isn't there yet. Mr. Dearborn indicated – it's the way it's on the plan. Town Planner Whitten indicated she was worried about meeting the Regulations. Mr. Dearborn replied – we agreed to 50', I didn't agree to pay the fee and now I have done that; no; because he/the neighbor has fought me since day one.

Mr. Wilcox responded – I haven't fought him and it isn't the wetlands issue; I would like to see the Applicant make money but he (Mr. Wilcox) has an obligation for his property. If he (Mr. Dearborn) drops the pile one foot he can move in a foot.

Chairman Ouellette suggested the Commission has debated the set back issue at length. The majority straw vote was for 50' although the Commission isn't bound to that; the Commission does have the flexibility to discuss that and if Mr. Dearborn doesn't agree to that he would be in violation of his Permit. Mr. Dearborn responded– we agreed to 50' and 38' and the only issue was the fee; he has agreed to pay. Commissioner Thurz recalled it was 25' and we agreed to 50'. Mr. Dearborn responded he doesn't feel it should be 50'; he (Mr. Wilcox) has a lot of trees and the box trailers. Commissioner Devanney suggested – we compromised.

Commissioner Zhigailo reported she has been to the site; it's well maintained. Commissioner Zhigailo indicated she doesn't feel it would impact Mr. Wilcox's property if it was 50'. He (Mr. Dearborn) won't be actively working that side, the wood chips are out near the road; Mr. Wilcox has trees, a fence, and the box trailers. Commissioner Zhigailo felt the 50' setback is reasonable for Mr. Dearborn. It's a well run business, he is respectful of the land, he has been cordial to her, there have been some issues, he has all that land but why not make it compact? She would like to see him get going on his business.

Commissioner Wentworth felt this is a situation where the citizen comes in but we really aren't making this user-friendly. He left here with the feeling that if he made his changes it would be finalized; Commissioner Wentworth felt the Commission should come to an agreement and hold to the agreement.

Commissioner Thurz indicated he is ready to vote.

Commissioner Devanney indicated she is happy to go forward, he has agreed to pay the fees, she is ok with the set backs.

Chairman Ouellette questioned Town Planner Whitten if the fee could be paid as a condition? Town Planner Whitten replied – No. Chairman Ouellette questioned if Mr. Dearborn could pay it tomorrow? Town Planner Whitten indicated the Planning Office will be open in the morning; Mr. Dearborn can pay the fee then. She clarified that the Commission can close the Public Hearing but can't take action until he pays the fee.

Chairman Ouellette suggested the Commission will close the Public Hearing, but won't vote tonight. In 2 weeks the Commission has a Meeting scheduled (August 9<sup>th</sup>). Town Planner Whitten concurred – we can take action that night. Chairman Ouellette concluded the plan is what it is.

Town Planner Whitten indicated she would like the area of the millings that currently says pervious to be revised to IMPERVIOUS on the plan. Commissioner Wentworth questioned if the discussion of the impervious coverage be in the condition? Commissioner Devanney suggested it will be in the condition; Town Planner Whitten clarified – it will be in the Minutes.

**MOTION: To CLOSE THE PUBLIC HEARING on Newberry Road Enterprises/Steve Dearborn – Special Use Permit for a Modification to Volume Reduction Facility at property located at 68 Newberry Road, East Windsor, CT. [M-1 Zone; Assessor's Map 93, Block 19, Lot 6.**

**DISCUSSION: Chairman Ouellette noted he felt there were a lot of unresolved issues remaining regarding this Application; he isn't in favor of closing the Public Hearing but he will go with the majority vote of his fellow Commissioners.**

**Devanney moved/Thurz seconded/**

**VOTE: In Favor: Devanney/Thurz/Wentworth/Zhigailo**

**Opposed: Ouellette**

**Abstained: No one**

**BUSINESS MEETING/(1) Incentive Housing Zone:**

Town Planner Whitten summarized that this draft set of regulations would allow residential housing and commercial development to occur on the same site, either co-existing within the same buildings, or in separate components. She noted current Regulations allow for construction of a residential unit located above a business component, as is the case with Pasco's Commons. This zone is based on a Statute which would allow workforce housing only within specific zones.

Commissioner Wentworth questioned if this would be low income housing? Town Planner Whitten reiterated that the intent of this Statute was to provide housing in relatively close proximity to job locations; it would be for police employees, employees of local businesses such as may be proposed for the Route 140 corridor, town employees, etc. Commissioner Wentworth suggested it could be housing for people out of work. Town Planner Whitten recalled that the Commission originally decided to discuss this proposal based on the parameters of the Statute, which would only allow such housing at specific properties; the Commission is now considering if it wants to consider adopting these specific regulations. Commissioner Wentworth questioned if this proposal was the result of a grant; he felt if the Town accepts the grant they - the State - will dictate what you do. Town Planner Whitten reported the grant was for funding for the Town to do a study; the result of the study was the draft regulations before the Commission this evening. Commissioner Wentworth questioned if this was already in the works because we accepted the grant? Town Planner Whitten reported the Commission doesn't have to approve these regulations, but she needs to conclude this process with the consultant who prepared the study, and make a report to the State reflecting the Commission's conclusions.

Commissioner Wentworth questioned where would Town Planner Whitten propose putting this? Town Planner Whitten reported it's being considered for Route 140 and Route 5. Commissioner Wentworth indicated he thought the point of Route 140 was for commercial development. Town Planner Whitten reiterated this proposal combines residential and commercial. She noted the Commission will be talking to Planometrics on proposals specific to Route 140; the question is does the Commission want to do this type of zoning along Route 140?

Chairman Ouellette questioned if this IHZ would bring in developers? He felt a developer could do this on their; he noted he didn't see any developers tearing down the doors at present. He felt the Town already has a lot of choices of housing types. Town Planner Whitten concurred, noting East Windsor already has 16% affordable housing which is way over the Statutory requirement. This is a different type of housing; it isn't low income; it's workforce housing. Chairman Ouellette suggested he was reluctant to move forward with anything that takes away from commercial development, particularly along Route 140. He agreed that this is a choice, as it mixes retail, residential, offices, and commercial within the same parcels. Chairman Ouellette felt, personally, this type of development wasn't a good candidate for Route 140, especially with the expansion of the sewer. He would rather see more intense commercial development along Route 140.

Town Planner Whitten questioned if the Commission felt this type of development was warranted elsewhere? Chairman Ouellette suggested previous locations discussed – near Sofia's Plaza, etc. – had merit. He questioned how this type of development was different from Pasco's Commons? Town Planner Whitten suggested the intent of this proposal is to have higher density under this type of housing.

Commissioner Wentworth indicated he didn't know who the genius was that put Mill Pond together and take people from Hartford and put them in the country and now people are stuck in the boondocks with no transportation. Commissioner Wentworth suggested he feels like a taxi service at times, with people asking him for transportation. Town Planner Whitten noted that part of the original intent of the grant for IHZ was to locate developments near a transportation corridor, which was the reason for considering parcels along Route 5; Route 140 and Route 5 meet the transportation criteria. Commissioner Thurz also noted Mill Pond wasn't Section 8 housing in the beginning

Chairman Ouellette questioned if the IHZ housing must be owner-occupied; although it isn't the intent this proposal has negative connotations associated with it. Town Planner Whitten suggested if a developer has the intent to do multi-family housing he can go with a text amendment currently. Commissioner Zhigailo indicated she would like to see this as an option for someone, but she felt it's too restrictive in this area right now. She felt housing wasn't an issue for East Windsor; we have adequate housing right now. Commissioner Wentworth felt the only place he could see this at this time would be Route 140, but the Commission has been leaning towards commercial development in that area; we need something off Route 140 with more sewers or Route 5. Chairman Ouellette felt the Commission needs to dedicate it's time to the development of Route 140; the time isn't right for this right now. If the community says they want a mix of commercial and residential development then the Commission has this proposal to go back to.

Town Planner Whitten concluded that the Commission wasn't willing to move forward with the IHZ Regulations at present. If it comes up in the Route 140 workshops the Commission can pass this draft on to the consultant.

**BUSINESS MEETING/(2) Correspondence:**

Town Planner Whitten noted receipt of letter from the Economic Development Commission requesting that the PZC review the current Temporary Sign Regulations with regard to the use of A-Frame structures, and consider sign regulations specific to Route 5.

Chairman Ouellette questioned how many applications for temporary signage have been received by the Planning Department to date? It was noted that since the inception of the Temporary Sign Regulations over a year ago three (3) applications have been received from business owners; three permits have been issued.

At the Commission's request Town Planner Whitten will investigate the sign regulations for the Town of South Windsor.

**BUSINESS MEETING/(3) Staff Reports:**

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION  
Public Hearing #1595 – July 26, 2011**

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- Special PZC Meeting being held Thursday, July 28<sup>th</sup> regarding preliminary planning for Route 140 Visionary Workshop.
- Town Planner Whitten had to return to the Board of Selectmen and Board of Finance to re-encumber the funds approved for payment to Planometrics regarding consultant fees for the Route 140 workshops and regulations. The Board of Finance requested the full payment be paid up front.

**SIGNING OF MYLARS/PLANS, MOTIONS:**

- Steve Farmer – 3 lot subdivision, 247/249 South Water Street – Motion

**ADJOURNMENT:**

**MOTION: To ADJOURN this Meeting at 9:03 p.m.**

**Devanney moved/Wentworth seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

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Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission  
(6337)