

**ZONING COMMISSION**  
**PUBLIC HEARINGS September 18, 2013**

Bill Stopper opened the Public Hearing at 6:00 P.M. with the following in attendance:

**MEMBERS:**

Diana Raczkowski, Acting Chair, Absent  
Neil Mascola  
Richard Cool  
Sally Brouillet  
William Stopper  
April Slauson, Alternate  
Matthew DeBarber, Alternate, Absent

**OTHERS:**

Steve Macary, ZEO  
Sue Goggin  
Public - 4

**PUBLIC HEARINGS**

**6:00 P.M. PUBLIC HEARING** – For wholesale auto sales at 38 Cherry Street;  
Applicant: 38 Cherry Street, LLC

Steve Macary said for the record that this public hearing was advertised in the Citizen's News on September 6<sup>th</sup> and 13<sup>th</sup>. Attorney McVerry, 35 Porter Avenue, said he was there on behalf of the applicant, 38 Cherry Street, LLC and its principal, Thomas Baranowski. He said it is an application for a Special Permit for wholesale auto sales on 38 Cherry Street. He said they are proposing a maximum of 5 vehicles on site, no auto washing and no work to be done. He read the conditions given by the Inland Wetlands Commission. He said they are not proposing any changes to the building. They are proposing to store the cars within the building- no more than 5 cars on site at any one time and by appointment only. They will be re-paving the parking lot as required by the Wetlands Commission. Attorney McVerry said the property is currently in an I-1 zone and this activity is allowed under the current zoning regulations under a Special Permit. He submitted photographs of the property for the record. There had been some work on site by a previous tenant, but he has been evicted and there have been no other complaints about any other activity on-site. Sally asked if there were plans to do anything to the outside of the building. Attorney McVerry said there are no plans to do anything to the outside of the building. It was clarified that the parking lot would be re-paved right up to the building. There was a discussion on repairing and cleaning cars. Mr. Baranowski said sales will be wholesaler to wholesaler. There was a discussion about what type of sign they will use. Sally would like to have the dumpster enclosed. Mr. Baranowski said he will do that. George, Anna Marie and Michael Hadoulis, owners of Atlantis Diner said their main concern is obstruction of the right-of-way in the parking lot. It was clarified again that there will not be retail sales, only wholesale. There will be no cars on display in the lot. Mrs. Hadoulis showed the commission pictures of the parking lot. The pictures were submitted for the record. Sally asked who the cars belong to. Mrs. Hadoulis said Mr. Baranowski claims that they belonged to the former tenants in the house next door. She said Mr. Baranowski was also present when people were coming to buy the cars. She said she has pictures on her cell phone of transactions, money changing hands, people working on cars, changing oil. She said she has a picture from just a few weeks ago of a man and his son coming to look at a car. She said she has a picture of Tom waxing the car before they came. Steve asked if the lot is totally cleaned up now. She said it is pretty much empty, but she said it has only been since the proceedings started that the lot has been cleaned up. She said when the town came to view the lot it was

empty (she showed the commission a picture). She said a lot of work was done to make it look presentable. Bill Stopper said according to the Planning Commission's comments, the things that are in the submitted photos will not be allowed under the current set-up. Mrs. Hadoulis said those things are not supposed to be going on now. She said they are concerned if this goes through and they file a complaint, what will happen. Bill said it appears as though what was going on is illegal. Now he is applying for a legal right to have a wholesale car dealer at that location. He said he presumed that if they approve something like this that Mr. Baranowski will abide by the laws and regulations that he was given. Steve said the last time he gave Mr. Baranowski a cease and desist and 30 days to clean up the property and set a fine. Steve said he took him to his hearing officers, with his attorney, and the property was cleaned up. Steve said if it fills up like that again, he will address it. Bill said according to the new requirements there's not to be any work done on cars. Steve said the public hearing can be continued to next month. There was no more public comment. Attorney McVerry asked to see the photos that were submitted. The public hearing was continued to October 16<sup>th</sup> at 6:15 P.M. The commission said they would go on individual site walks.

**6:15 P.M. CONTINUED PUBLIC HEARING** – Text change to Section 27 (Signs);  
Applicant: Naugatuck Zoning Commission

Keith said the Planning Commission tabled this item. He said he will have their comments at the next meeting. There was no public comment. The Public Hearing was continued to October 9, 2013 at 6:00 P.M.

**6:30 P.M. CONTINUED PUBLIC HEARING** – For a zone change to the current zoning map so it may adhere to the Plan of Conservation and Development. Applicant: Naugatuck Zoning Commission

Keith said his memo was read aloud at the last meeting and he was there to answer any questions the commission might have. He said Mr. Wargo was correct regarding the piece of his property on Rubber Avenue. It was not part of the R-65 zone change and is an R-30. There was an error by the town's mapping department. It will be corrected on the map. Keith said, in regard to extending the RADD, although it appears to work with some of the property owners, the policy of the POCD only extends it up to the Rubber Avenue Extension bridge. Attorney Fitzpatrick asked if they are the same parcels that the Planning Commission forwarded a positive referral to the Zoning Commission. Keith said yes. Keith said all of the parcels before the commission tonight are designated by the 2001 Plan of Conservation and Development to be changed from industrial residential. Bill Stopper asked if the changes that are being proposed completes the POCD. Keith said they do complete it. Steve asked Neil to read into the record a letter dated July 31, 2013 from Council of Governments commenting on the proposed zone changes. Bill asked for public comment. Dave Rogers, 100 Hill Street, asked if the zone changes will be voted on at the October 9<sup>th</sup> meeting. Steve said that is correct. He asked if there is going to be public discussion on October 9<sup>th</sup>. Bill said yes it is going to be a public hearing followed by a vote. Dave asked if the current proposals stand, except for the places that are already being used for industrial. Steve said the letter Neil read says that industrial will be a legal non-conforming use and they cannot expand. Joe Preta, 1052 Rubber Avenue, said they never received a letter regarding the zone change. Keith said the letters were sent out at the beginning of the process. Mr. Preta asked how the zone change affects them. Steve said their property is being proposed to change from industrial to RADD. Steve said there are many uses allowed in the RADD and Mr. Preta should

come to the Land Use Office to discuss it. Mr. Preta asked where the RADD line will end. Steve said it will end at his property. There was no more public comment. Bill said they will continue the public hearing until October 9<sup>th</sup> at 6:15 P.M.

## REGULAR MEETING

1. At 6:00 P.M., Bill Stopper opened the meeting with the Pledge of Allegiance and then took attendance and noted there was a quorum. He made April Slauson a regular voting member in place of Diana Raczkowski.
2. There was no Executive session.
3. Approval of the August 21, 2013 Regular Meeting Minutes. The secretary will sign previously approved minutes.

**VOTED:** Unanimously on a motion by Neil Mascola and seconded by Sally Brouillet to **APPROVE** the August 21, 2013 Regular Meeting Minutes as written.

### 4. OLD BUSINESS:

- A. Commission discussion/decision for a text change to Section 27 (Signs);  
Applicant: Naugatuck Zoning Commission

There was no discussion on this item. The Public Hearing was continued to the October 9, 2013 Special Meeting at 6:00 P.M.

- B. Commission discussion/decision for wholesale auto sales at 38 Cherry Street;  
Applicant: 38 Cherry Street, LLC

There was no discussion. The Public Hearing was continued to the October 16, 2013 meeting at 6:00 P.M.

- C. Commission discussion/decision for a zone change to the current zoning map so it may adhere to the Plan of Conservation and Development. Applicant:  
Naugatuck Zoning Commission

There was no discussion on this item. The Public Hearing was continued to the October 9, 2013 meeting at 6:15 P.M.

### 5. NEW BUSINESS:

- A. Update regarding the Finlay/Bronko work.

Attorney Fitzpatrick and Steve Macary both left the meeting before there was any discussion. Sally said she would like to make some comments. She said she is sure both the Finlay's and the Bronko's are very nice people. However, based on the reports of the staff and the Borough Attorneys, it is her opinion that sufficient time and expense has been given to the Bronko's and the Finlay's, ie: visits to the properties, letters, meetings, legal fees, etc. She said she wishes to propose that no further action be taken by either the Zoning Commission or the Land Use staff as cited by these neighbors. Sally said made the following motion:

“For the reasons I have just given, I ask for a second on my motion that no further action be taken on past and present complaints regarding the compliance with the Naugatuck Zoning Regulations and investigations into the conditions at either the Bronko property, located at 34 Fairfield Court, or the Finlay property, located at 30 Fairfield Court, except the usual procedures shall apply as to any further improvements requiring a zoning permit application for regulated activities on either property.”

The motion was seconded. There was no discussion. A member of the audience said they should be able to speak. Mike and Eileen Bronko, 34 Fairfield Court, asked who Sally talked to regarding this. Sally said Attorney Savarese. Mrs. Bronko said the last they left it was the motion that the 2 to 1 slope would be done within a year- Mr. Finlay was given a year. She said the swale would be done and they came here today to go over the update of the work- no one has said anything to them about anything different than what was already voted on. Neil said Attorney Savarese sent them an e-mail stating that the 2 to 1 slope cannot be enforced by the Borough and nobody would ever win in court. He said they are just going based on the Attorney's guidance. He said they cannot enforce Mr. Finlay putting up a wall either. He said Steve has no authority to fine him and this is what they are being told by the Attorney. Mr. Bronko said the action that the commission took last year regarding the sloping and the wall... Mrs. Bronko said based on Attorney Savarese's opinion, saying that the letters that were cited, she said they have all the documentation, they have all letters to say that he was to conform to the 2 to 1 slope. She said he was given deck permits in order for that 2 to 1 slope that never happened. She said they pursued it all the time so he was given everything that he wanted and yet they still have this mess on their property. Not to mention a swale that is compromised. Sally said according to Attorney Savarese they are just not obligated to continue any further. Mrs. Bronko said that even though the town has zoning regulations, when you decide and you vote and you give them a year to do it... Mr. Bronko said the commission enacted legislation to give Finlay an order to comply with and all of a sudden now it's moot. Neil said he is not even sure if they have the right to do that if he understood the letter right. There was confusion on who wrote reports that were given to the commission. It was clarified that the reports were written by Susan Goggin and Wayne Zirolli. It was also clarified that Attorney Savarese's correspondence was an internal e-mail between zoning commission members advising them. Sally said they are simple not obligated to carry it any further. Mr. Bronko asked if they are not obligated to enact or enforce an order that the commission gave. Neil said that's pretty much what Attorney Savarese said in the e-mail. Mr. Bronko asked how that is possible that this commission cannot.. (garbled). Neil said Attorney Savarese wasn't even sure they had the right to do that. Mr. Bronko said he's the one who gave the advice last year to do that. He asked how that is even possible. He asked what sense that makes- it makes no sense. Sally said they wish they could both settle it neighbor to neighbor. Mr. Bronko said forget the neighbor to neighbor stuff. We are sick of hearing that neighbor to neighbor stuff. This has nothing to do with neighbor to neighbor. All this has to do with is complaints we made to the town's zoning and complaints that the towns' zoning either didn't want to do or are incompetent to follow through on and then they had to follow this for the past 11 years in order to get this to work out. He said and now the commission is telling him all of a sudden that they don't have the

obligation. What is that? Mrs. Bronko said the commission can follow zoning rules for other people but not for the Bronko's. She said the zoning rules talk about that you cannot water on somebody's property. Sally said she was sure it was frustrating for everyone. Mr. Bronko said the commission gave an order, they legislated an order and they cannot tell him that they are not obligated to enforce it. Sally suggested that the Bronko's go into the Land Use office and pick up a copy of the Attorney's e-mail. Mrs. Bronko said they would like copies of everything and they are entitled to those copies. Sally said they are entitled to them. Sally and Mrs. Bronko spoke at the same time – couldn't understand. Sally reiterated that Attorney Savarese said they are not obligated to be involved in this any longer. Sally said they have tried- they've been going over this for years and years. Mr. Bronko said exactly and the commission has finally come up with an order last year and gave him directions on what to do. He said this should have been finished- he should have been able to do what he was ordered to do and then it would have been over, but since he didn't do it, there should be actions taken because he didn't follow the order that the commission gave last year. Neil said that Attorney Savarese feels that the commission can't fine him for that. He said the court would not support them. Mrs. Bronko said they are not maintaining a 2 to 1 slope based on letters that they are submitting and documentation ... (garbled). Bill Stopper asked Sue to get copies of Attorney Savarese's letter for the Bronko's and the commission. Mrs. Bronko asked if this includes the swale. She asked if they are going to enforce the swale. Sally said no. Mrs. Bronko said all the water that dumps onto their property... Sally said will not be enforced, not by the commission. Of course if they want to seek outside means, they are free to do that. Mr. Bronko said it seems like that's what the commission is trying force them to do. Sally said they are not trying to force them to do anything. She said it's just that they cannot do anything further at this point. Mr. Bronko asked where was this advice and where was this action last year. Neil said last month, the commission asked for Attorney Savarese to be at the meeting this month and he wrote an e-mail saying he didn't think he could make it, and apparently he didn't. Mrs. Bronko asked if Sally's motion meant to swale also. Sally said yes, all related issues. Mrs. Bronko asked if they realize that the run-off will continue and will start destroying the growth that started to come back. She said in all honesty, these are zoning regulations that were in effect all these years. She said they followed it from 2002 all the way to now with the zoning regulations. She said they haven't asked for anything other than following the zoning regulations. She said because of people not equipped to do their jobs and follow through, they have been at the end of incompetence, but yet they followed through hoping the process will be fixed and will help others and clearly, clearly people in this town will not be able to count on zoning regulations to be followed all the way through. She said because ... it's too long, too hard, had enough, so...you're done with us. Mr. Bronko said not obligated- he had never heard of such a thing. Bill said he hasn't seen Attorney Savarese's letter, but evidently what the Bronko's are stating is that the regulations that were established, the zoning requirements that were established, the things that have gone on for the past 11 years, Attorney Savarese is saying that legally the commission doesn't have the authority to impose them. Mrs. Bronko said that a year and a half ago, Attorney Savarese said that the commission was, which is why they followed through with the determination to establish the wall, the 2 to 1 slope, the whole thing with a 2 step wall. She said they just wanted a 2 to 1 slope- that's all they ever

asked for. She said they were trying to accommodate different options for fixing that back mess, so 2 to 1 slope was fine with them. Neil said they can't enforce that. Rick said what Attorney Savarese is saying is the 2 to 1 slope isn't in the regs and the commission can't enforce it. Mrs. Bronko said it always was in the regulations. Mr. Bronko said it was in the regulations when the offense took place and then for some reason the Zoning Commission changed that and now he believes they've changed it back. Mrs. Bronko said she went through all those meetings and it was left out- that was still in the excavation, grading regulation and when it was finally printed out with the new regulations, all of a sudden that was gone. But she said it doesn't matter because they have a letter stating that it was supposed to be a 2 to 1 slope. She said the last letter in 2007, saying that Mr. Finlay will be able to get his deck permit, to make his huge deck, and he will comply with a 2 to 1 slope and he didn't do that. Bill asked if the 2 to 1 was left out of the current zoning regulations. Mr. Bronko said, as Mr. Stopper should know, he believes that it was omitted for some reason. He doesn't think it was voted out. Mrs. Bronko said she didn't think Mr. Stopper was here then. Rick Cool said that they are saying the 2 to 1 slope isn't in the regs. Rick said it was voted in September 17, 2013. Mr. Bronko said the commission voted it back in because they omitted it for some reason, unbeknownst to whomever sat on the commission at the time, but the fact of the matter is that offense took place when those regulations were in force. Mr. Bronko said they made complaints about those when they were in force at the time that they took place. Mrs. Bronko said the commission has the letters that state, from Attorney Fitzpatrick, saying that Mr. Finlay will indeed do the 2 to 1 slope in order to get his permit. She said he did get his permit and never did the 2 to 1 slope. April Slauson asked if anyone knew why Mr. Finlay never did the 2 to 1 slope. Neil said he didn't do it because he's just annoying the neighbor. Mrs. Bronko said he's difficult and he really never wanted to do it. Neil said according to the Attorney, the zoning commission can't prosecute him because he's not doing it. Sally said there's nothing more they can do from this commission- this is what it is. Mrs. Bronko said she disagrees and she doesn't think it is the way it is and she thinks the commission is back peddling on regulations. Sally said no one is back peddling- they are just taking their Attorney's advice. Based on Attorney Savarese's e-mail, Mr. Bronko said he (Attorney Savarese) thinks it would be best to, again, ask the parties to clean up the area between their properties but not threatening either with fines. Mr. Bronko said he thinks its best according to what. Bill Stopper said it is just his opinion. Mr. Bronko asked if he can put regulations or law to this. Mrs. Bronko said that they are saying regulations all the time- everything else that seems to be coming out now is opinion. Mr. Bronko said the commission enacted legislation last year to give him an order to do that work, to clean up the mess and to correct what he did in the first place. Sally said he did approve making a motion to simply take no further action because it's been going on for so long. Mr. Bronko said it was this commission that let it go on so long. Mr. Bronko said they are at the point that the commission gave them the timeline to do the work. He said the commission enacted the legislation he doesn't see why they can't enforce it the legislation because he thinks its best. Mrs. Bronko said if this was initially in 2003 or 2004 and the commission enacted that legislation, then he would have been required to do it then and you would have come back and if he said he didn't do it the commission would start fining him because that is the option you have when people don't go according to the regulations. She

said they would have done that then. She said in 2007, when he was wanting to have his deck, and before he wanted to have his CO in 2002 or 2003 for his house, so he said he would do it, the 2 to 1 slope, in order to get his CO. Mr. Bronko read the last sentence from Attorney Savarese's e-mail. He said the work was not requested but it was ordered. The commission ordered it. Rick Cool said there have been legal mistakes and mistakes by the Zoning Board where they voted on 2 to 1 slopes where they shouldn't have. He said the question is how to resolve it and what's the next step. Sally said the commission is not obligated. Rick said he understood that but the Attorney made a mistake. April said the Attorney needs to be there before any decision or motion is made. Rick said the commission told him to do a 2 to 1 slope based on legal advice but the legal advice is wrong. Mrs. Bronko said she would question that the Attorney's advice is wrong. She said they have the documentation. Rick said the commission told them to do 2 to 1 based on the legal advice. Mrs. Bronko said they have always had the documentation to support their claim according to zoning regulations that a 2 to 1 slope should be at the property line. Rick asked her if the 2 to 1 slope is in the regs. Mrs. Bronko said the commission voted it back in because it was omitted when the zoning regulations were changed. She said she went to all those hearings and it was never omitted in those hearings. She said that for whatever reason when it was posted there were certain things that were taken out as far as excavation, soil and erosion and grading issues, which is she believes why the commission put it back in because it wasn't supposed to come out. She said she also believes that there are other zoning commissioners that were there. She said they have documentation, a letter from Attorney Fitzpatrick himself, who also happens to be the Town Attorney that says that Mr. Finlay, in order to have his deck, will comply and do a 2 to 1 slope at the property line. He didn't say in that letter according to Naugatuck Regulations. She said it was a 2 to 1 slope that they've always fought for from the very beginning. She said that didn't change. April said she didn't feel comfortable on this motion because she thinks Attorney Savarese should be there. There was a discussion on the 2 to 1 slope and when it was effective. The commission determined that Attorney Savarese was needed to make any decisions. Neil withdrew his second of Sally's motion. Sally withdrew her motion until the next zoning meeting regarding Bronko/Finlay until Attorney Savarese is here. Bill said they want to continue this to the October 16<sup>th</sup> meeting. The commission asked Attorney Savarese to be there.

**B. Commission discussion for A Better Way Auto to park cars on General Data Com property located on Elm Street and Rubber Avenue; Applicant: Attorney Kevin McSherry**

Attorney McSherry, 38 Fairview Avenue, Naugatuck, said he was there representing A Better Way Auto. He said back in June of 2010, A Better Way came before the commission, represented by Pat Granahan, who works for them. He said they told the commission they were going to store their vehicles in the General Data Com parking lot, which they continued to lease and now they lease from the Borough. He said they have had some discussions with the DMV and found out that in order to continue doing what they're doing there, which is store cars with the prices in the window, they need to apply for a Repairers License. Their intent is to do what they've been doing, which is storing cars, pursuant to the commission's direction. He said the commission's

direction in June 2010 was to store the cars and park them in a manner that made them look like it was a parking lot for a business, which they've done. He said what was authorized back then wasn't done by a motion and they need the commission to vote it as a motion. He said the statutes that involved are 14-55 & 14-56. He said Steve had signed off on a map saying it was authorized by the commission but it still needs a motion. He said he didn't have a time frame to give the commission. Bill asked what differentiates what they could do once they obtain that license. Attorney McSherry said they would be able to do repairs, but they don't want to do that. Rick asked if they could approve it with the condition that they can't do repairs down there. He requested that they could word the motion that they approve the signing of the application with the representation that the applicant will not be repairing vehicles there. There was a discussion on the lease agreement. The commission asked Steve to come back to the meeting.

**VOTED:** Unanimously on a motion by April Slauson and seconded by Rick Cool that the Zoning Commission of the Borough of Naugatuck **GRANT** a certificate of approval for proposed location to A Better Way Auto Wholesalers, LLC, pursuant to CGS 14-54 and authorize Zoning Enforcement Officer, Steven Macary to sign A Better Way Wholesale Auto, Inc.'s application for automobile dealer's or repair license on behalf of the zoning commission with the condition that they will not be repairing vehicles on the property.

Steve re-entered the meeting. He asked where the commission was on this. There was no further discussion on this item.

- C. Accept Special Permit application, refer to Planning Commission, set the Public Hearing for a self storage building located at 1257 New Haven Road; Applicant: Newtown Investors, LLC; Plans prepared by J. Edwards & Associates, LLC

**VOTED:** Unanimously on a motion by Neil Mascola and seconded by April Slauson to **ACCEPT** the Special Permit application, **REFER** to Planning Commission, and **SET** the Public Hearing for November 20, 2013 at 6:00 P.M.

- D. Accept Special Permit, refer to Planning Commission, set the Public Hearing for the excavation of more than 350 yards of earth material located at 1257 New Haven Road; Applicant: Newtown Investors, LLC; Plans prepared by J. Edwards & Associates, LLC

**VOTED:** Unanimously on a motion by Sally Brouillet and seconded by Neil Mascola to **ACCEPT** the Special Permit application, **REFER** to Planning Commission, and **SET** the Public Hearing for the excavation of more than 350 yards of earth material located at 1257 New Haven Road; Applicant: Newtown Investors, LLC; Plans prepared by J. Edwards & Associates, LLC  
November 20, 2013 at 6:15 P.M.

- E. Additional items require a 2/3 vote of the Commission.

**VOTED:** Unanimously on a motion by Neil Mascola and seconded by Sally Brouillet to **ADD** Attorney McSherry to the agenda regarding 100 Church Street.

Attorney McVerry said they've applied for the variances after last month's discussion with the commission. They will be heard at the September 24<sup>th</sup> ZBA meeting. He thought they would file their Special Permit Application, hoping that the commission could schedule them for a Public Hearing next month to try to move it along. He said his client is eager to move forward. Mr. Lindgren will have some renderings to show the commission.

The commission set the Public Hearing for October 16, 2013 at 6:30 P.M.

**VOTED:** Unanimously on a motion by Sally Brouillet and seconded by Neil Mascola to take a 10 minute recess.

**VOTED:** Unanimously on a motion by April Slauson and seconded by Sally Brouillet to restart the meeting.

**6.** Commission discussion/ZEO permits and various complaints.

There was no discussion.

**7.** Chairman Report

There was no discussion.

**8.** Public Comment

There was no public comment.

**9.** Adjournment

**VOTED:** Unanimously on a motion by Rick Cool and seconded by Sally Brouillet to adjourn the meeting at 8:00 P.M.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary/sg