



**TOWN OF NEWTOWN**  
**PLANNING AND ZONING COMMISSION**

**MINUTES**  
**REGULAR MEETING**  
Thursday, May 6, 2021 at 7:00 p.m.

**Zoom Virtual Meeting Participation Information**

Thursday, May 6, 2021 at 7:00 P.M.

Call-In Number: +1 929-205-6099

Meeting ID: 915 0582 0257 #

Website: <https://zoom.us/j/91505820257>

**Present:** Don Mitchell, Roy Meadows, Corinne Cox, Barbara Manville, Dennis Bloom, Andrew Marone, David Rosen (missed first application)

**Staff:** Rob Sibley, Deputy Director of Land Use, Christine O'Neill, Clerk

Mr. Mitchell called the meeting to order at 7:02 p.m.

**Public Hearings**

**Application 21.12 by John Vollmer, River Park Properties for a Site Development Plan, for a property located at 21 Commerce Road, so as to permit the construction of a building with 10,000 sq ft garage/storage space and 2,500 sq ft office space, as demonstrated on a set of plans titled, "Site Improvements, River Park Properties LLC, 19 Commerce Road, Newtown Connecticut" dated 4/12/21 rev. 4/16/21, and documents submitted to the Land Use Agency 4/14/21.**

Mr. Mitchell reported that Jason Edwards, authorized agent for applicant River Park Properties, wrote a letter to the Land Use Agency dated 5/5/21, requesting that the public hearing be continued to 5/20/21.

**Application 21.10 by Melanie and Brian Di Stante for a Special Exception, for a property located at 214 Berkshire Road, so as to permit the construction of a 2,880 sq ft hobby/storage garage as demonstrated on plans titled, "Proposed Zoning Location Survey, Prepared for Melanie Di Stante, MBLU 54-09-32, 214 Berkshire Road, Newtown, Connecticut" dated 3/15/21 and documents submitted to the Land Use Agency 4/13/21.**

Mr. Di Stante explained that he and his wife are looking to build a 2,800 square foot hobby garage to store the old machines he has inherited from his father. It would be used to restore and work on those vehicles. Right now Mr. Di Stante is paying a lot of money to keep them in a storage facility. Mr. Mitchell asked if the applicants had reviewed the regulations on Special Exception and Site Plan applications. Mr. Di Stante said no. Mr. Mitchell explained that there appears to be a good deal of information missing from the record. Mr. Di Stante referenced the

*These draft minutes are subject to the approval of the Commission.*

department reviews, all of which recommend approval except for some provisions on drainage which could be satisfied when the building permit is applied for. Mr. Mitchell extrapolated that in order to make the findings required in the Zoning Regulations, the Commission would need more documentation in the record.

For instance, Mr. Mitchell said, someone had submitted a letter concerned that a business would be run out of the garage, and until the testimony tonight, there was nothing in the record to refute that. Mr. and Mrs. Di Stante assured the Commission that they had no desire to make commercial use of the building - only to work on Mr. Di Stante's father's old cars as a hobby.

Ms. Manville asked if the garage would be larger than the house. Mr. Di Stante said yes.

Mrs. Di Stante addressed a public comment that had been submitted, which said that the house was not lived-in and in poor condition. She explained that when they had purchased it from the previous owner, it had not been occupied for years. The Di Stantes currently live in Westchester, but they plan to move onto the property and have been maintaining it since purchase.

Mr. Mitchell asked if they would erect the building before they moved in. Mr. Di Stante said that yes, that was the intention.

Ms. Cox asked if the garage would be large enough to house all Mr. Di Stante's cars, so that he wouldn't be working on them outside. Mr. Di Stante said it would be enough room, but if need be there could be vehicle lifts to a second level. Ms. Cox also wondered about a driveway to this new structure, and Mrs. Di Stante responded that there is already an apron (albeit overgrown at the moment) that goes onto Chestnut Hill. Ms. Cox and the Di Stantes agreed that they would prefer to stay off Route 34.

Mr. Meadows asked if the woodworking machines would be used for commercial carpentry. Mr. Di Stante said he would only be restoring them. He described them as a "sentimental thing" that reminded him of his father. Mr. Meadows asked about the well or cistern that exists on the back of the property. Mr. Di Stante said he didn't know much about it and planned to leave it there. Mrs. Di Stante contributed that the pump is not connected and functioning. Mr. Meadows wanted to know if they planned to fill in the 4-foot hole, since it appears to be a hazard. Mr. Di Stante said he was willing to fill it in. Mr. Meadows asked what the setbacks were for this R-2 property. Mr. Sibley contributed that it is a 25 foot setback for side and rear yards.

Mr. Meadows also asked how far back a building needs to be from wetlands. Mr. Sibley explained that there is a review area of 100 feet, but that would be addressed when the applicants came in for a building permit. From what he knows of the area, he expected they would only need a Short Form or an administrative sign-off. Mr. Meadows speculated the proposed garage might be as little as 50 feet from wetlands. Mr. Sibley said that could be perfectly allowable and may not even require a permit.

Mr. Mitchell returned to Ms. Manville's comment about size. He said that the garage would be larger than the living area of the primary dwelling, but smaller than the gross floor area. Ms. Manville said her observation was really about the visual comparison between the two buildings.

*These draft minutes are subject to the approval of the Commission.*

Mr. Mitchell mentioned that in other states, sometimes accessory vs. principal use can be judged by size. Yet, this very Commission not too long ago approved an application with a similar garage-to-house size ratio.

Ms. Cox asked the height of the garage. Mr. Mitchell said 14 feet. Ms. Cox asked about the height of the house, and the Di Stantes replied it is two stories. Ms. Manville also commented that the proposed garage would be set back relatively far from the house and the road. Mr. Meadows added that there are trees all around the boundaries that would add some buffering.

Mr. Mitchell asked Mr. Di Stante's timeframe for when he would change his residence to the property. He replied 4-5 years, when his son graduates high school. Mrs. Di Stante contributed that she grew up in New Fairfield and considers Connecticut her home. Mr. Mitchell pointed out that if the building goes up in the next six months or so, there would be about 4 years with no principal use of living on the property, and yet the accessory use would exist. Mr. Di Stante said there is still a lot of work to be done on the house to make it habitable due to past flooding and other conditions, but the family visits regularly to mow the lawn, clear the snow, etc. Mrs. Di Stante added that the house is less than an hour from them and they stop by usually every other weekend. Mr. Mitchell said that that assurance gets him over his "philosophical hurdle."

Ms. Cox asked about the appearance of the garage. Mrs. Di Stante said it would be a Morton Building, referencing the photos she submitted of two other Morton Buildings in town. She confirmed that the images were similar to what they would construct.

Mr. Mitchell asked what the timeframe for construction would be. Mr. Di Stante said it was not up to them, and might be several months after approval.

Mr. Meadows asked if there would be a concrete floor. Mr. Di Stante said yes, the building is constructed first and then the cement comes in afterwards.

Mr. Mitchell invited public comment.

Michael Wilmot and Rebecca Rudolph of 5 Harvest Common Road, Newtown, CT live on the abutting property. Mr. Wilmot listed their concerns: the size of the garage compared to the house, the aesthetics of a large steel structure, the closeness to their property line, and the dead ash trees that provide no visual barrier. Ms. Rudolph also noted that there is a significant amount of water including a stream that supports quite a bit of wildlife on the property. She would like to understand how the new homeowners plan to address these concerns.

Mr. Di Stante responded that they are as far away as possible from one of the property lines, though close to the boundary with the rock wall. He does plan to put up landscaping such as bushes or hedges to maintain both parties' privacy. He advised that Mr. Wilmot and Ms. Rudolph look at photos on the Morton Building website, which demonstrates that the structure will not look like warehouses or commercial buildings.

Eileen Byrnes of 3 Harvest Common Road, Newtown, CT said she is concerned with the high water table being contaminated by motor oil or vehicle fluid leaks. Especially since the residents

won't be living there, a leak may occur and the owners would not know it for days. Ms. Byrnes also felt that the proposed building will not be attractive and she will have a clear view of it. She was concerned that if the property had flooded before, it could happen again with the garage. Ms. Byrnes stated that the abutting neighbors should not need to bear the burden of looking at a warehouse because it is too expensive for the applicants to continue paying storage fees for the vehicles. She also expressed that she was bothered by the tone of the Commission, which seemed to suggest that the approval was "a done deal."

Mr. Di Stante said the property had flooded because the sump pump failed. Now he has newer equipment, and that will not be an issue. He said no motor oil would penetrate through the concrete. Ms. Byrne asked if he would be working outside on the cars. Mr. Di Stante said no, specifying that he would really only be doing bodywork and aesthetic modifications. He noted that his next door neighbor has many vehicles, boats, lawn equipment, etc. parked outside.

Mr. Sibley requested that Mr. Mitchell employ a more orderly format for public comments, as it was becoming a back and forth conversation between the neighbors.

Ms. Rudolph brought up that the property had been very well-manicured and taken care of before the applicants purchased it. Mr. Mitchell said that is outside the Commission's consideration. Mr. Wilmot asked if there will be electric and plumbing in the structure. Mr. Mitchell said the application states there is no plumbing, but he would assume there must be electricity for lighting.

Sean Dunn of 7 Harvest Common Road, Newtown, CT said he owned a carwash and asked if these vehicles would be washed on the property. Mr. Di Stante said no. Mr. Dunn asked about the detailing. Mr. Di Stante said he would use products that are no-rinse. Mr. Mitchell pointed out that, again, this was outside what the Commission could consider. This might be in the domain of Health or Building. Mr. Dunn responded that the chemicals could seep into the wetlands. Mr. Mitchell asserted that this is not a time for discussion between neighbors and applicants. The point of the public hearing is to educate the Commission. He stated that people are allowed to wash cars in their driveways or garages, as long as they are not in commercial volumes.

Mr. Di Stante said there will be no need for repetitive washing of the cars once they have been restored and protected. Since he will be living on the property, he wouldn't want to contaminate the well that his children and wife drink from either.

Lisa and Tom Cahalane of 210 Berkshire Road, Newtown CT were concerned that the size of the garage in proportion to the residence will dominate the property and is not appropriate for this residential zone.

Ms. Byrne asked how many cars would be stored on the property. Mrs. Di Stante asked what bearing this has on the application. She explained that the building would also be used to store woodworking equipment, so the aim is not to jam as many cars in as possible. Mr. Di Stante repeated that they will strive to be good stewards of the property since they will be living there.

Mr. Mitchell asked how many cars Mr. Di Stante currently has in storage. Mr. Di Stante said six or seven.

With no further questions, Mr. Mitchell pondered if they should close the public hearing or leave it open to receive further evidence. He felt that to make the itemized findings that the Zoning Regulations call for, they need more documentation in the record. Mr. Di Stante asked what specifically is needed. Mr. Mitchell suggested the applicants review Articles 10 and 11 of the Zoning Regulations, because he does not have what he needs to make affirmative findings. Mr. Di Stante said that each department had signed off on the application, so he was unaware that things were missing. Mr. Mitchell requested that the applicants contact the Land Use Agency to go over what is missing.

Mr. Meadows said he is concerned about the wetlands, and wondered if that is the missing information to which Mr. Mitchell was alluding. Mr. Mitchell said the Commission can ask for input from the Wetlands Officers.

Ms. Manville, Mr. Bloom, and Ms. Cox agreed that the public hearing should be continued.

Ms. Cox moved to continue the public hearing to the meeting of 5/20/21 at 7pm via Zoom. Ms. Manville seconded. All were in favor and the hearing for Application 21.10 was continued.

**Application 21.11 by HBN Corp Park LLC for a Zone Change and Site Development Plan, for a property located at 153 South Main Street, so as to:**

**a) change the Zone from M-1 to Special Development District #8 (SDD8), and  
b) convert 2,725 sq ft of existing office space to a restaurant with a 1,850 sq ft outdoor dining area –  
as demonstrated on plans titled, “Proposed Restaurant, 153 South Main Street, Newtown, Connecticut, Special Exception Application, Prepared For HBN Corporate Park, LLC. 153 South Main Street, Newtown, Connecticut” dated 4/13/21, and documents submitted to the Land Use Agency 4/13/21.**

Mary Blackburn, Landscape Architect and Matt Baldino, Project Engineer from Solli Engineering presented the application. Ms. Blackburn reported that the property is located at 153 South Main Street in the South Main Village Design District. Last year, the Commission approved a Text Amendment that created Special Development District #8, which the applicant is now proposing to change the property to. 2,725 square feet of office space would be converted to a restaurant with additional outdoor dining. She displayed the site plan.

Mr. Baldino went over the two septic systems, one of which is currently inactive. The second septic system would be expanded and made active, adding a grease trap, and the leaching fields would be expanded. The drainage and stormwater system are in compliance with state requirements.

Ms. Blackburn reviewed the landscape plan, noting that there would be some shade trees, evergreens for screening, and some native plants for visual interest. All lighting will be down-

*These draft minutes are subject to the approval of the Commission.*

lighting from building-affixed sconces. Elevations demonstrated that windows would be converted to double doors.

Mr. Mitchell asked Ms. Blackburn to confirm that there would be 73 seats inside and 10 outside. Ms. Blackburn confirmed, noting that some indoor seats might be shifted outdoors during the busy season. Ms. Cox asked if medical offices would still be in the building. Ms. Blackburn said yes.

Mr. Meadows asked if the restaurant is primarily to serve the workers already in the building. Ms. Blackburn said it is a restaurant that can serve anyone. Mr. Meadows wondered what kind of food it would be serving and what its ambiance will be like. Ms. Blackburn said they will not serve breakfast and will not be a sports bar - likely a lunch (tapas) and dinner establishment. Mr. Meadows explained that he was asking these questions in an effort to better understand if the abbreviated traffic study was appropriate.

Mr. Baldino said that the trip generation was based on the number of seats in the restaurant, but the algorithm did provide a credit for the trips already coming to the building from the change in use (that is, cars that had been going to the medical offices that will be converted to restaurant space). Mr. Meadows didn't understand why the study showed a.m. trips if they weren't serving breakfast, and Mr. Baldino said this was because the traffic industry algorithm assumes a restaurant that does have breakfast service. Mr. Meadows asked, then, if Land Use Code 932 was really the best code to use, given that it assumed a breakfast crowd. Mr. Baldino said the a.m. was included to provide a conservative analysis. Mr. Mitchell also pointed out that the plans of the restaurant might change if they decide to serve breakfast down the line, so it's good that they have the numbers now.

Mr. Rosen wondered about the busy restaurant that already exists across the street, and how it would impact traffic turning onto or off of Route 25. Mr. Baldino said both properties' ingresses and egresses were stop sign controlled. Mr. Mitchell asked for an estimate of how far the driveways are from each other. Mr. Baldino measured about 350 feet.

Mr. Meadows asked if there would be a change in level of service out of the driveway that would come with the change in use. Mr. Baldino said that since there won't be more than 100 trips, a reevaluation of the level of service was not triggered.

Ms. Cox asked about the line of sight. Mr. Baldino noted that this is an existing driveway onto a State road regulated by the Department of Transportation, and they are not proposing to alter it.

Mr. Mitchell invited public comment. No one came forward.

Mr. Bloom moved to close the public hearing. Mr. Meadows seconded. All were in favor and the public hearing for Application 21.11 was closed at 8:29 p.m.

Mr. Mitchell read the following into the record:

*These draft minutes are subject to the approval of the Commission.*

*BE IT RESOLVED that Application 21.11 by HBN Corp Park LLC for a Zone Change for a property located at 153 South Main Street, so as to change the Zone from M-1 to Special Development District #8 (SDD8) as demonstrated on plans titled, "Proposed Restaurant, 153 South Main Street, Newtown, Connecticut, Special Exception Application, Prepared For HBN Corporate Park, LLC. 153 South Main Street, Newtown, Connecticut" dated 4/13/21, and documents submitted to the Land Use Agency 4/13/21 IS HEREBY FOUND CONSISTENT WITH THE PLAN OF CONSERVATION AND DEVELOPMENT AND THE COMPREHENSIVE PLAN, AND SHALL BE RECOMMENDED FOR APPROVAL.*

*BE IT FURTHER RESOLVED that the approval shall become effective May 29, 2021.*

Ms. Cox so moved. Mr. Bloom seconded.

The Commission voted as follows:

Don Mitchell - AYE  
Roy Meadows - AYE  
Corinne Cox - AYE  
Barbara Manville - AYE  
Dennis Bloom - AYE

*BE IT RESOLVED that Application 21.11 by HBN Corp Park LLC for a Site Development Plan, for a property located at 153 South Main Street, so as to convert 2,725 sq ft of existing office space to a restaurant with a 1,850 sq ft outdoor dining area, as demonstrated on plans titled, "Proposed Restaurant, 153 South Main Street, Newtown, Connecticut, Special Exception Application, Prepared For HBN Corporate Park, LLC. 153 South Main Street, Newtown, Connecticut" dated 4/13/21, and documents submitted to the Land Use Agency 4/13/21 IS HEREBY FOUND CONSISTENT WITH THE PLAN OF CONSERVATION AND DEVELOPMENT AND THE COMPREHENSIVE PLAN, AND SHALL BE RECOMMENDED FOR APPROVAL.*

*BE IT FURTHER RESOLVED that the approval shall become effective May 29, 2021.*

Mr. Meadows so moved. Mr. Bloom seconded.

The Commission voted as follows:

Don Mitchell - AYE  
Roy Meadows - AYE  
Corinne Cox - AYE  
Barbara Manville - AYE  
Dennis Bloom - AYE

The motion to approve Application 21.11 (including Zone Change and Site Development Plan) carried unanimously.

*These draft minutes are subject to the approval of the Commission.*

### **Referrals**

*Referrals from the Town of Easton, “Amendment to POCD” & “Regulation Text Amendments”*  
Mr. Mitchell said the changes appear to be town-wide, but would not affect Newtown. The Commission agreed. Mr. Mitchell requested that a note be sent to Easton stating there is no opposition.

### **Minutes**

Mr. Mitchell moved to approve the minutes from the meeting of April 15, 2021. Mr. Meadows seconded. All were in favor and the minutes from the meeting of April 15, 2021 were approved.

### **Adjournment**

Mr. Rosen made a motion to adjourn. Mr. Bloom seconded. All members were in favor and the meeting was adjourned at 8:36 p.m.

*Respectfully submitted,  
Christine O’Neill, Clerk*

A recording of the meeting can be found here:

<https://drive.google.com/drive/u/0/folders/1aRIsg8hN0PIY0SrEWonBGwK9DR8KkEO7>