

TOWN BOARD  
JULY 20, 2006

A Special Meeting of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 5:30 p.m.

PRESENT: Theresa Egan, Supervisor  
Daniel Plummer, Councilman  
Kyle Kotary, Councilman  
Kathleen A. Newkirk, Town Clerk  
James T. Potter, Esq., Town Attorney

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Supervisor Egan welcomed everyone and asked them to join in the pledge of allegiance to the flag.

SUPERVISOR EGAN: Thank you, everybody. We are here this evening for a public hearing to consider the proposed Local Law Amending the Town Code in regard to the Zoning, Subdivision Regs and Zoning Map.

Do I have a motion to waive the read of the call of the meeting and a motion to Indent the Notice of Public Hearing Affidavit of Publication and Affidavit of Posting.

The motion was made by Mr. Plummer and seconded by Mr. Kotary to waive the read of the call of the meeting and a motion to Indent the Notice of Public Hearing Affidavit of Publication and Affidavit of Posting. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Kotary.  
Noes: None.  
Absent: Mr. Gordon, Mr. Messina

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TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING  
TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on July 20, 2006 at 6:00 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law amending the Code of the Town of Bethlehem, Chapter 128, Zoning, Subdivision Regulations and Zoning Map.

All parties in interest and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact the Town Clerk at 439-4955, ext. 183. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD  
TOWN OF BETHLEHEM  
Kathleen A. Newkirk, MMC, RMC  
TOWN CLERK

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State of New York)  
County of Albany )

CHRISTINE MC NAMARA of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 5<sup>th</sup> day of July 2006.

/s/ Christine McNamara

Sworn to before me this 5<sup>th</sup> day of July 2006.  
/s/ Sharon A. Doldo

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For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

Notary Public, Albany County

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STATE OF NEW YORK)  
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on July 2006, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk  
Town Clerk

Sworn to before me this  
20<sup>th</sup> day of July 2006.

/s/ Julie S. McNeil  
Notary Public

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The motion was made by Mr. Plummer and seconded by Mr. Kotary to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Gordon, Mr. Messina, Mr. Kotary.

Noes: None.

Absent: None.

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SUPERVISOR EGAN: This is going to be very odd tonight; we are missing a whole half of table. Okay, we are going to open this up I think, Mr. Leville is just going to make a very brief presentation in regards to some updates that have been made since the last Town Board Meeting. We are not going to go through each and every one of these. We have had these, they have been on the web, and have been provided to Town Board. George, just let me before we get started, just kind of going through the ground rules here for a minute not that there is a whole lot of us here to worry about but, if you wish to speak if you could fill out a card with Debbie with your name and such. We need it for the record for the Public Hearing.

We will, obviously, allow you to speak in the order that you signed up but since it doesn't look like there's a whole lot of us, my guess is that we will be pretty flexible with this. But we do ask any comments that we make this evening, try to keep them short and concise. It is really is not an interactive session or debate, it really is to hear comments from you all in regards to the situations. However, if there is a question or clarification or some misrepresentation made, we will take that opportunity to try to clear that up. So, now, with that being said if George wants to...

MR. LEVEILLE: Thank you. First of all at the front table there is an Overview of all the issues that we have been considering over the last couple of months. Today when we made copies to try and save paper we cut it down to six pages, the Town Board has a seventh page just in case we are talking about pages numbers there might be a little bit of conflict. But the copies in the back highlight additional recommendations that we are making for the amendments.

The first one that I want to bring attention to is the Commercial Vehicles issue this is one that we have put a lot of time and effort into over the last couple of years. The parking of commercial vehicles overnight in residential districts under the prior code, prior to last summer was prohibited to park commercial vehicles. So anything with a commercial plate was really prohibited from parking in a residential zone. We recognize that maybe that is not appropriate and what we are now doing is recommending that we amend the definition of Commercial Vehicle to eliminate the reference to being license by the state as a commercial vehicle. We do believe that many people use vehicles for passenger purposes, primarily passenger purposes that may have commercial plates. That is not really what we are talking about here. So we are really focusing on vehicles that are used for any commercial purpose or which has any business advertisement affixed to or

mounted on the vehicle, or which exceeds the curb weight or is greater than twenty-three feet in length. So we are really getting at vehicles that are business vehicles parked in residential districts.

COUNCILMAN PLUMMER: Can I on that -- that is not an an, that's an or?

MR. LEVEILLE: Which one?

COUNCILMAN PLUMMER: When you said if you had a pickup truck that has... for example xyz company on it... does that have to be over eight thousand pounds to require them then to get the special permit or are they exempt because they are under eight thousand?

MR. LEVEILLE: Well, they are permitted to park one that is under eight thousand pounds or twenty-three feet in length in the district overnight without any permit. If there is more than one, they need to get a special use permit for the second one basically.

COUNCILMAN PLUMMER: So it does capture pickup trucks that would be used for commercial purposes that have like the business that they are working for on there vehicle.

MR. LEVEILLE: Correct.

COUNCILMAN PLUMMER: Okay, that is a little different than what we were talking about only in that it has to be a vehicle that has the company name.

MR. LEVEILLE: Well you know... for example, if it is used for commercial activity meaning it has tools on it, equipment, clearly it is going to job sites to perform work and has advertising on it that is clearly a commercial vehicle. I think that is the interpretation that our building department would have.

MR. PLUMMER: The only thing that I was thinking that Mike and I was talking about and Mike wants to say something...

MR. MORELLI: That's okay.

COUNCILMAN PLUMMER: ...we didn't think it was appropriate to capture just your typical pickup.

MR. LEVEILLE: Correct.

COUNCILMAN PLUMMER: But this does capture a pickup truck if it's got...

MR. LEVEILLE: Only if it is used as a commercial vehicle.

COUNCILMAN PLUMMER: Which most of them are though. On most pickup trucks...

MR. LEVEILLE: No, most of them are not. That's is why we got rid of the commercial license plates because if we captured everyone with a commercial license plate we think we would be capturing a lot of passenger vehicles. Not vehicles that are used for commercial purposes.

SUPERVISOR EGAN: Mr. Carkner is very happy just for the record.

MR. LEVEILLE: Do you agree:

MR. CARKNER: I agree.

MR. LEVEILLE: In other words, a lot of folks register their vehicle and obtain commercial plates but they are really using their vehicle as a passenger vehicle. So we did not want to capture passenger vehicles. We are looking for vehicles that are

commercial vehicles that are used for commercial purposes that have tools and equipment and advertisement on them. That's where we think we...

COUNCILMAN PLUMMER: I didn't see it that way. But I Can see what you are saying. But you still get an exemption if you are under 8,000 pounds. The exemption applies for only one.

MR. LEVEILLE: Correct.

COUNCILMAN PLUMMER: Okay.

MR. LEVEILLE: And then if you have more than one you need a special use permit. That is reasonable. It means it is permitted but at least there is a process of what hours of operation, what noise you make, where you are parking it on you property and those kinds of things that can be considered.

COUNCILMAN PLUMMER: They come here to thing Building?

MR. LEVEILLE: They would come to the Planning Board for a special use permit.

COUNCILMAN PLUMMER: So they have to go before the Planning Board.

MR. LEVEILLE: Yes.

MRS. CAPONE: What about if they have covered trailer in the back of the truck?

MR. LEVEILLE: Would that be a trailer that would be attached or detached. You are permitted to have trailers on your property as long as they are not parked in the front yard. They can be parked in the garage or parked in a driveway. That would be okay. That doesn't count in the length.

MRS. CAPONE: It's because the builders... I have a builder that comes to my house and he has a trailer in the back of the truck.

MR. LEVEILLE: We accounted for the trailers. Okay?

COUNCILMAN KOTARY: George, just a point of clarification. In order to be entitled to the exemption, do you have to be both under eight thousand pounds and under twenty-three feet in length.

MR. LEVEILLE: Correct.

TOWN ATTORNEY POTTER: I think the use of the and/or is potentially confusing.

MR. LEVEILLE: The idea was to capture either or situation so we will make sure that is clear. Okay, any more questions on that?

Okay, the next item has to do with...

SUPERVISOR EGAN: George hold on. Mike

MR. MORELLI: Dan, the idea when we were talking earlier is that if you could have two commercial vehicles parked in your driveway. Lets say I have a pickup truck that is not used for commercial purposes. I have maybe a commercial plate but it is just a regular pickup truck with no advertising, no tools etc. and then I have another one that is actually used for commercial purposes I have tools, I have a sign on the side of the thing. I would be allowed both of those but only one can be used as it says here for commercial purposes.

MR. LEVEILLE: Yea. So if it is not used for commercial purposes....

MR. MORELLI: So, I have a pickup truck but I have no signage. I do not use it for

commercial purposes; I could park that in my driveway. Then lets say I had another commercial vehicle but I did use that for commercial purposes with signs and so on, I would be allowed to have one.

COUNCILMAN PLUMMER: You would be able to... So in that situation, you would have both trucks.

MR. MORELLI: I could have 2 pickup trucks in my driveway.

SUPERVISOR EGAN: Right without the special use permit.

MR. MORELLI: Yes.

COUNCILMAN PLUMMER: I don't mean to belabor it. It's just... okay...

MR. MORELLI: I am sorry for that if I wasn't clear on that.

COUNCILMAN KOTARY: Just to be cleared, you are allowed more, you just have to go and get a permit.

MR. MORELLI: That's correct. It doesn't prohibit it, it doesn't say you need use variance. It says if you are over eight thousand pounds and/or more than twenty-three feet in length. You are not prohibited now it just means you have to go and ask the Planning Board for a special use permit which would look at criteria. You know, the provisions...

MR. LEVEILLE: That deals more with noise, lighting and time of operation and things which is a concern. Somebody is running their vehicle at three in the morning to warm it up.

MR. MORELLI: The bigger vehicles often times are diesel they like to start them up early to warm them up. They generate a lot of noise and they generate a fare amount of odors.

COUNCILMAN KOTARY: And, I think it is... George, you and I talked about this, I think it's important for people to understand what you said at the beginning of your comments and that is that this is actually more flexible and more reasonable than it was.

MR. LEVEILLE: It was prohibited before.

COUNCILMAN KOTARY: It was completely prohibited before, it wasn't necessarily enforced.

COUNCILMAN PLUMMER: But, no one did anything about it so no one knows it exists.

MR. LEVEILLE: Well, it was prohibited.

COUNCILMAN KOTARY: Right.

COUNCILMAN PLUMMER: But, it's never been an issue while I've been here that I knew of anyhow. And, if it was an issue I think people would have come forward.

MR. LEVEILLE: Okay, the next item has to do with the definition for restaurant. We added under restaurant a banquet hall. We realized that we didn't really have a spot in there that accounted for a banquet hall and that we thought that would be appropriate within the definition of the restaurant.

The next item has to do with fences and walls. We added language that prohibits the location of a fence or wall in the municipal right-of-way. Seems kind of obvious but we thought we would put the language in there to make it very clear. So, if you are in a municipal right-of-way of a road, you cannot put your fence in that area.

Last several, the maximum density unit calculation on major subdivisions. And, I think we actually came up with a really good idea here to give some flexibility to the Planning Board, to the developer and really with an eye towards fulfilling the comprehensive plan goal of open space protection. And, we are suggesting... and maybe Neil can chime in here... that we would allow for an average density calculation. So, instead of saying that a minimum lot size in the RA district must be 15,000 square feet, we're going to give the Planning Board the ability to look at an average density over the entire development so that we can cluster property, we can work with the constraints of the land, and at the end of the day if under a conventional subdivision – if you have 30 acres and you can do 3 units per acre -- then the 150 units could be built. We're saying you don't have to have a minimum lot size of 15,000 square feet but you still don't get any additional density. So, you could have smaller lots, you can work with the land, you could have some irregularly shaped lots. It gives flexibility I think to provide open space protection and to give developers better use of their land if they have constrained lands.

This is something that kind of emerged out of the rural... oh, excuse me, the residential large lot but really applies to all subdivisions. I mean I think it gives flexibility to both builders and to the Planning Board to optimize the design of a site.

Neal, anything to add on that?

MR. WILSON: ..... inaudible

MR. LEVEILLE: So, that I think is a nice addition to the Code.

Under the use chart, we recognize that we had changed some definitions without changing uses on the chart. So, they just changed garage commercial to garage parking because under the old, last version, we were talking about a garage commercial, really we were talking about a parking garage. So, now we're calling it a garage parking and we're also permitting parking garages by site plan review in the hamlet, commercial hamlet, commercial mixed economic development district, industrial and rural light industrial districts.

We're also permitting garage, commercial storage, by site plan in the rural hamlet district. We think that's appropriate that individuals may have storage, commercial storage businesses in rural hamlet type areas so we wanted to permit those in that district.

Under the area yard and bulk chart, basically, this relates back to the average density issue. Same thing, we just want to change the chart to indicate that average density can be used as opposed to minimum lot size.

And, then 2 zoning map changes – I think you all should have received a map, if you don't have a couple maps in the front – the first has to do with property located in the new RLL zone on the north side of Surrey Mall. We inadvertently picked up 2 lots that were on New Scotland Road that were in the RA zone. We prefer to leave those in RA. We think they're appropriate RA. So, we've taken 2 lots – the addresses are not in front of me – I think it's 1433 and 1435 and we have spoken to at least one of the property owners who concurred with that. We think that's a reasonable adjustment.

The second one has to do with really correcting a mistake we made last summer with the original map. Early on in the process we had conversation along with Keith Bennett from Security Supply – business that's been in Town 90 years maybe or more, Keith?

MR. BENNETT: 73 years.

MR. LEVEILLE: 73, almost 90 and his concern because he was part of the rural unzoned district and wanted to be sure they had appropriate zoning. We met with him, came up with the hamlet plan for down there thought we had it all resolved and then went and changed the hamlet to preclude his business. Clearly a mistake on our part so we want to correct that by bringing his entire parcel into the rural light industrial district that adjoins his property. We think, you know, we're very strong here on protecting our

business base and there's a very strong business that compliments and brings a lot of benefit to Selkirk. They should be appropriately zoned. So, we're recommending that his parcel just be added to the contiguous Rural Light Industrial Zone.

And, those are the only changes from the original that we had provided you couple months ago.

SUPERVISOR EGAN: Right and I would just add, I had a phone call from one of the Zoning Board Members today with a couple of minor – couple of typographical errors, one was raised in regard to the training requirements and I think internally we've already figured that out that, in fact, it's not a problem.

And the third issue we had was just there is a reference within the Zoning Board legislation that talks about an acting chair or temporary chair without really any direction on how to achieve one of those. So, we will make that minor revision and that will be included in the final version.

MR. LEVEILLE: So, I'd just like to in closing... I'd just like to again thank our staff and Neil Wilson, who has been a great consultant to us, and the citizens most of whom are here who have been interested in this and have followed and have chimed in on these changes. We think that this technical correction was a good one. It was well thought out by the Board last year that we do this and we think we now have a more functional and better zoning law that should carry us forward. Thank you.

SUPERVISOR EGAN: Okay. We have 2 speakers tonight. Keith, you want to go first?

MR. BENNETT: Good evening, my name is Keith Bennett. I'm the President of Security Supply, at least the current President. I've just been speaking to acknowledge our business in the Town of Bethlehem. Let those that are here that may not know what we do or who we are. You give me a forum and I will speak.

First I'll give you a couple of these. These are the monthly newsletters we produce for our employees and interested parties so you can study and see what we do. We're a 73 year old company based in Selkirk, headquartered in Selkirk, probably as I've mentioned to George and Terri a few times, we're probably Town of Bethlehem's best kept secret. We are last year a 40 million dollar company in sales, 126 employees about 48 which are located in Selkirk or live in or work in Selkirk.

Unfortunately our business is right on Maple Avenue, it just happened to be where it was spotted 72 years ago. So we would like to... at the present time we have some warehouses in the back and we would like to add on and to do that we can't really be in a residential zone. We would like to be in the RLI zone. I don't believe we have been a bad neighbor to any of our neighbors. Three of my neighbors work for me and I own the house on the other side.

I would just like to mention that we are 25 percent ahead this year in sales from last year so it looks like we're probably going to stick around a few more years. Yes, we are benefiting from the Town of Bethlehem's growth, Albany area's growth, eastern New York's growth. We have 12 locations pretty much up through what is called Tech Valley from Poughkeepsie to Plattsburgh and our payroll is 5.6 million dollars last year. So, we are a factor in the Town of Bethlehem, probably one of your better-kept secrets. We do sell plumbing and heating supplies. Retail a little bit through our showrooms but mainly commercial work and to your plumbers that come to your homes. That's what we do. I appreciate the efforts of the Town Board and the Planning Committee and Zoning Committee. Thank you very much.

SUPERVISOR EGAN: Thanks, Keith.

MR. JASINSKI: Good evening, Robert Jasinski. I want to thank everybody for working on this. George has done a wonderful job and everything. I do have some problems. Problems with one of them is a main issue, enforcement. So, I would ask, George, how you gonna enforce all these things that he has here. In other words, what I am saying is, I

notice Mr. Plummer was asking about – I believe or Mr. Kotary was – about a definition of commercial. Now, if George come up with if you are using tools and such like that, well if you are using tools for profit then I assume that is commercial. If you are using tools and a commercial vehicle, which I don't even know if my vehicle is registered commercial, my pickup truck, and I'm putting tools on there to go to work on property or something like this – is that commercial? And, then I want to call your attention to the fact well, maybe you need a definition right in there of what is commercial.

The other thing I take it for granted that your not going to go out and enforce this overall throughout the Town, you are going to wait for a complaint. I never liked this. If you get stopped by a Trooper for a violation of the law, you are violating the law. When you are driving down the road without a driver's license or registration, you are violating the law. The same way these people that are out there with these commercial vehicles and everything, I would say probably we got 10 people that are going to know what this law is about. The rest of your population isn't even going to know about it until all of a sudden knock-knock-knock and you're violating the law.

So, you know, those items I do have a problem with a lots of the stuff is an enforcement. So, I mean, is it going to be well if somebody calls up and complains, then we will enforce it. If not, I mean that's a heck of a way to run rules, regulations, law and such. So, I know it is a hard point, don't get me wrong, it puts you the Town Board in a position to say well, we can't go out and give everybody tickets that violating it because we don't want to upset the whole Town and everybody screaming. But, the Town doesn't scream. Look at your attendance.

SUPERVISOR EGAN: Right. No, I would just and again, we certainly can work through this, Bob. But, I think there's a lot... there's a common sense element to this. I don't think anybody here at Town hall waits for a complaint if there is something out there that they see. I mean if, and Mark correct me if I'm wrong, if you guys are going to do inspections and you are at house A and your doing an inspection and you look across to house B and all of a sudden there's a deck going up that you don't have a building permit for, they go...

MR. JASINSKI: You may not want the answer to this... so be careful.

SUPERVISOR EGAN: No, no, no, because we've had it. They will go to house B and say, you know, we got a problem. Similarly, just... so, I mean... do we have enough time that we can put a whole bunch of zoning... or enforcement officers on the payroll because if we did that, I am guessing you would be standing right there telling us we're increasing the payroll too much.

MR. JASINSKI: Oh, yea, sure, sure...

SUPERVISOR EGAN: So, there is a little bit of a common sense here that clearly we're out doing our jobs, people are looking to the extent that they see something – do we enforce when there is a complaint, certainly. That's a piece of it also but I guess I would just go back to your analogy with the State Trooper, do we think people speed more than those who actually get tickets. I mean, there's only a certain number of troopers you have on the road that can enforce the law at the same time too. So, I mean, I think... I think... I understand your concern and certainly it's stuff we've talked about how we going to do this and you know, and it is a common sense thing that we're going to have to work through. But, as we see it, it will get enforced. As we get complaints about it, it will get enforced. You know, I'm not sure, you know – staff any other thoughts on that?

MR. LEVEILLE: ... practical way of addressing what can be nuisances.... And you know generally all the laws are on the books... you can't proactively try to enforce them all. But, I do think we have to be consistent on how we address it and how we interpret it and we'll take a look and see if maybe more definitions will be beneficial.

SUPERVISOR EGAN: On the commercial side.

MR. LEVEILLE: That may help.

MR. JASINSKI: All right, now, are you going to... and I question this not to be on one side and you on the other side so to speak you know as a Town Board and everything but have you thought about how you are going to address these violations? Are you going to address them by just the warning – hey Joe Smith you’re violating a section....?

MR. LEVEILLE OR MR. MORELLI: .....

MR. PLATEL: Basically what we do is we go to somebody’s door, knock on the door and say x, y, z..... go to Board of Appeals or you..... at that point..... they are cooperating.....

MR. JASINSKI: All right, now how is grandfathered in going to work?

MR. LEVEILLE: Can only grandfather legal uses so if it’s not a legal use, you can’t grandfather if it’s never been legal.

MR. JASINSKI: If it’s never been legal, then it’s not legal...

SUPERVISOR EGAN: Correct.

MR. JASINSKI: ...not grandfathered in.

SUPERVISOR EGAN: Correct.

MR. JASINSKI: ...which is understandable. Okay. But, if it’s then legal and now it’s not legal then you are grandfathered in.

MR. LEVEILLE: Correct.

MR. JASINSKI: Okay, all right. Now, I’ll ask you with the zoning some of... a business goes out of business do they have a certain amount of time for a new owner to come in and use that property under the same... like grandfathered?

MR. LEVEILLE: Yes.

MR. JASINSKI: And, what is that time?

MR. LEVEILLE: Generally 12 months.

MR. JASINSKI: 12 months.

MR. LEVEILLE: Yes... you retain the non-conforming use as long as it’s maintained.....

MR. JASINSKI: And, then, how would the Town... if it goes beyond the 12 months of business? I mean, I’m thinking of a particular place and if it goes beyond the 12 months will the Town look favorably at putting back in the same type of business.

SUPERVISOR EGAN: I think we’d have to look on it on a case-by-case basis but I think the answer, Bob, would probably be not look forward to it. Because, if it is a non-conforming use... there’s been a determination with the change of zoning that is not a use that you want there. With the interest of trying to work with owners and whatever, that’s why you give them that 12 month window but once that 12 month window is gone, the idea is that zoning area... that area... or that use is not something that, you know, on a consensus basis is something that is desirable in that particular location any more. So, I mean, my gut-knee jerk reaction would be you are beyond the 12 months, the chance is we would not look favorably on putting something back in of that nature. It would have to be... after the 12 months, it would have to be a conforming use being used on that particular property.

TOWN ATTORNEY POTTER: And, just to expand on that, that would probably be a

determination for the Zoning Board of Appeals to make whether there is actually an abandonment during that 12 month period. Also, if there were, then the owner would probably be in there for a Variance. So, it's probably not a matter for the staff or the Town Board to deal with. It's probably a Zoning Board of Appeals matter under those circumstances.

MR. JASINSKI: All right, okay, fine. I'm going to turn to a person to find out if they are going to speak. Okay. Then I reserve a comment later, if I may.

SUPERVISOR EGAN: Look, you may have it right now. Okay. Thank you. Ursula Bower.

MRS. BAUER: Hi. I came here tonight to listen and learn and not to speak but when Bob raised this issue of enforcement I wanted to follow-up on that. I have been enforced against for an illegal use of my property and other colleagues of mine in Town are using their property in that same way and have not been enforced against. And, I'm... I do feel discriminated against as a result of that. I'm not sure why I'm being enforced against except that someone did bring my activity to the attention of the Town. And, therefore, if I have a neighbor who wants to harass me, they can do that by taking advantage of these situations when my fellow citizens around the Town are engaging in the same activity.

I am now trying to go through the process of the special use permit. That's costing more than the activity I am engaging in and the process is very cumbersome requiring a lot of materials. So, I think, this issue of differential enforcement really is discriminatory in the community and you see this activity going on, do nothing but because I have a neighbor - - presumably I don't know if it's a neighbor or not, I have no information about the complaint - I have to stop the activity. So, it is a problem.

SUPERVISOR EGAN: Sure. I mean and not knowing, can we have the address of the property because I'm not sure what we are talking about?

MRS. BAUER: The property is 200 Winne Road and the activity is bee keeping.

SUPERVISOR EGAN: Again, not being familiar at all with what the specifics are of this particular case. First, of all I guess I would go back to, there is not discriminatory enforcement in this particular case. I mean, I know people use these words sometimes interchangeably and... wait, I have 2 other attorneys here that will back... can certainly chime in on this.

MRS. BAUER: I'm saying I feel discriminated against.

SUPERVISOR EGAN: Yes and to the extend that, you know, anything is brought to the Town's attention that we are aware is in violation of a law, rule, regulation, Town ordinance, we will go ahead and enforce as need be. And again, this kind of goes back to we cannot be all places at all times.

MRS. BAUER: Right, and I would just say, I'm obviously not going to name names of the other people who are engaged in this activity but I would assert that you're building and zoning department knows who they are.

SUPERVISOR EGAN: Okay, I can't even address.

MR. PLATEL: .... Mark Platel.

SUPERVISOR EGAN: Mark, you need to speak up, Kathy can't hear you in the speaker.

MR. PLATEL: Oh, I'm sorry. Basically what... .... The other people who have been doing this, I did look further on this under the old zoning and it did not prohibit you from having bee hives in there... in the old zoning and when you came in... more.... .... From... and they did have.... So under the old zoning it was allowed to have beehives at your house. And with the new one they .....

MRS. BAUER: Okay, so when you are telling me that it's a safety issue, it's really has nothing to do with safety.

MR. PLATEL: Well, safety as far as some people ... neighborhood where I was..... and a safety issue....

MRS. BAUER: But, if it's a safety issue on my property, it is a safety issue on these other allowed uses as well.

MR. PLATEL: But, under the zoning I .....

MRS. BAUER: And, that's true... so anyone who had bee keeping on their property...

MR. PLATEL: Safety... zoning....

MRS. BAUER: So, we agree that that's not an issue then here.

MR. PLATEL: Right.... If it was not listed .... People do it there.

MRS. BAUER: So, anyone who had bee hives prior to...

MR. LEVEILLE: August 24, 2005.

MRS. BAUER: Is grandfathered in.

MR. LEVEILLE: As long as they did do it and ... stop for 1 year or....

MRS. BAUER: And, what's commercial... how many hives are commercial?

MR. PLATEL: .....

SUPERVISOR EGAN: I don't know the answer to that off hand. And, I mean... and again with this being a specific issue I would just ask Mrs. Bauer that you follow-up with staff. This is kind of more regard to the new ordinances here. We are kind of getting a little afield here. I understand you have a specific concern. What I would suggest is that you deal with the staff... Mike, I'm sorry, did you want to say something?

MR. MORELLI: I just wanted to say, I'm Mike Morelli. I talked to Mrs. Bauer this week and we have a meeting set... to go through the process .... And I will assist her in that process.

SUPERVISOR EGAN: Okay. So, if we can go back... again, the proposal in regard to these recommendations and kind of stick to that, that's really the topic of the hearing tonight and then in regard to your particular issue, Mrs. Bauer, if you follow-up with staff. Then, certainly, if there are still issues, Town Board is here, you know, every second and forth Wednesday. You can certainly come back. But, this evening, let's try to keep with the topic that we have here this evening would be great. Okay, thank you. Linda. Thanks, Deb.

MS. JASINSKI: Well to start out with the whole commercial vehicle thing, it's so difficult to understand it, it's ambiguous. I mean, commercial vehicle that has tools. I mean, what are you going to do go looking in people's trucks to see whether they have tools in it. If they are parking it in a garage, what difference does it make. Nobody knows about it and it's not a problem. But, as you read through this, it's like you know where exactly does it fall. How do I know and that I find is a real problem. And, that also allows the enforcement people to twist it around in different ways to go after the people that they want. And, I know you are telling me you are not targeting anybody here or being discriminatory but along the same lines of the agricultural uses, if you read the agricultural use includes horticulture which really means then that you can't have a garden. You need a special use permit to have a garden in residential, if indeed, you need a special use permit for a hobby of a couple of beehives as I read it.

So, you know, again I am concerned about how this whole commercial thing is being written and how it's going to be understood and how it's going to be enforced.

SUPERVISOR EGAN: Thank you. Okay, do we have any other comments this evening?

MR. JASINSKI: Forgot to turn the phone off.

SUPERVISOR EGAN: Oh, I was going to say, you get service in here?

MR. JASINSKI: But I get beeps. The issue I am going to address now and I think it should be addressed at this time is the fees for special use permits. Now, you may want to have 2 or 3 different levels, dependent upon whether it is a hobby, it's a commercial endeavor or items like that. Now, I'm going to give you a hearsay cost which I believe is like \$500 for a special permit use.

MR. LEVEILLE: \$150.

MR. JASINSKI: \$150 for all?

MS. MOQUIN: .....

MR. LEVEILLE: ..... Okay, so how many....

MR. JASINSKI: What's the combined cost?

MS. MOQUIN: I don't have... I am sorry but I don't have that whole fee schedule in front of me but there is a... probably by the time you are done it's like.... Go through the site plan and the special use permit it could be close to \$400-450 .....

MR. JASINSKI: Now, I mean, I call this to your attention as a Town Board because this is what you are going to be approving. So, if you want to talk about it, now's the time. I mean, you know, that's quite a fee.

MR. LEVEILLE: .....

SUPERVISOR EGAN: Pardon?

MR. LEVEILLE: Been there a long time....

SUPERVISOR EGAN: I don't know that there's been a huge change in those fees. I mean that's not anything new with the new ordinance, Bob. The fees didn't change with that so I mean it wasn't the new ordinance change and the fees went up. The fees have been the fees, have been the fees – is my recollection. Mike?

MR. MORELLI: The only difference, Bob, is the old way it was done was for... Zoning Board, the Planning Board so you went to the Zoning Board for a special use permit and then from there you had to get bounced over to the Planning Board – different fee and application. The way it is now, it's more streamlined both special use permits and site plan review is done by the Planning Board – one fee, one application, one Board but actually the fees haven't ...

SUPERVISOR EGAN: The only difference under the old way, is you may have paid a fee to the Zoning Board and then come over and paid a fee to the Planning Board but at the end of the day you were still paying the same amount.

MR. MORELLI: You went to the Zoning Board, paid a fee and made application, had a public hearing, got approved and got bounced over to the Planning Board, filled an application fee out, paid a fee...

MR. LEVEILLE: How many special use permit applications have we had this year?

MS. MOQUIN: Four.

MR. LEVEILLE: Four.

COUNCILMAN KOTARY: And, these are for land use, right, that we are talking about this fee schedule?

SUPERVISOR EGAN: Special Use Permits.

COUNCILMAN KOTARY: Right, special use but for land use because we also refer to special use permits for... for example, commercial vehicles if you have 2 or more.

MR. LEVEILLE: That is the land use....

SUPERVISOR EGAN: That's a special use permit. There's only 1 special use permit.

MR. LEVEILLE: ..... for the use of that commercial vehicle in that district.

COUNCILMAN KOTARY: Okay, so you have to go through a site plan and all this other stuff if you're going to have 3 vehicles... 3 commercial vehicles?

MR. LEVEILLE: Yes.

SUPERVISOR EGAN: Yes.

MR. LEVEILLE: That is the special use permit process.

SUPERVISOR EGAN: Right.

MR. LEVEILLE: Always has been.

MR. JASINSKI: All right, I'm going to chime in now and...

MR. LEVEILLE: .....

MR. JASINSKI: ...say to you, by putting a fee of this price once it gets out to the public that this is what it is going to cost, the honest people that would normally come for a special use permit because they are violating a rule/law are going to say the hell with it, pardon me. You know, they are going to say, I'll wait until I get caught with the idea that they will violate the law until somebody turns them in or they get caught or something like this.

SUPERVISOR EGAN: Right, again, it's a good point, we certainly can think about it. Two things I just want to add – nothing is changed now other than it is in one place and it's streamlined and secondly, we're not spending a whole lot of time trying to create a problem... or fix a problem that only 4 times have come in front of the Board in 6 ½ months. So...

MR. LEVEILLE: I think we have to look at the other side of that.... In all respect... we have... somebody... we start allowing people to park tractor-trailers, dump trucks throughout residential neighborhoods affecting 10s of thousands of people, we're going to get a storm and it's not going to be rain. Okay. I mean this is practical reality – residential districts versus rural non-residential districts. This is a reasonable combination for someone who is really operating a business from their home, not as a home occupation but allowing them to park their vehicles there is an accommodation. But, I think it's reasonable. We have to think of the fact that hundreds of people who are nearby who are affected by noise, sounds, lights, equipment....

SUPERVISOR EGAN: Smells...

MR. LEVEILLE: I mean it's your choice... if you want to... few people who may be negatively impacted and that's unfortunate but is it thousands or just a few. You got 4

special use permit applications and it's not because people are breaking the law willingly, it's because there hasn't been a lot of need for them.

COUNCILMAN PLUMMER: I don't think... I understand what you are saying and I agree with that but I don't think anyone is talking about, you know, allowing dump trucks... I think the concern that we were focusing on was limited to the pickup trucks. So, I agree with what you are saying and, you know, I think the point here is we're trying to find a balance and...

MR. LEVEILLE: But, 8,000 pounds is not a typical pickup truck. 23 feet is not a pickup truck. Those are very large vehicles.

COUNCILMAN PLUMMER: I understand that but it does capture a pickup truck that weighs 2500-3000 pounds if it's your second one, using it for commercial purposes. I mean that was... or if you 2 of them that are used for commercial purposes. You are captured in that instance and that is a situation, I think, that does exist. I don't think that's that uncommon but no one is looking, I think, to allow for a dump truck in the heart of Bethlehem where you are idling it, like you said, and everything else. So, that is the only scenario where... I said there may be some room for some flexibility but I think it is, at the same time, I think it is the kind of thing that we're going to have to let play out a little bit and if it becomes an issue, you know, address it. Because, we're trying to find a balance here. You can't fix everything.

SUPERVISOR EGAN: Right.

MR. MORELLI: And, I think that's a good point and we kicked that around quite a bit at staff level and that's why we came up with the recommendation to the Board that not prohibit it, that the code does not say prohibit, it just says if you reach a certain threshold, you now have to go and get a special use permit. It's still permitted but now as a special permit provided you meet the provisions of the special use permit.

COUNCILMAN PLUMMER: Yes and I agree and I think if you, you know, if you want to have a dump truck then you should have to go through and you should have to go through that process and pay that kind of figure. I think, however, on the other extreme if you have 2 pickup trucks that weigh each 2500 pounds and they are in your driveway or your garage and they are not causing anybody any problem, that's a little different scenario and you know, you could easily argue you shouldn't have to go before the Planning Board and spend that kind of money to continue that when no one is complaining. I think that might be... you know... that's so you have 2 different extremes and my view is that, you know, what we have in front of us... it's an attempt to balance it out and we have to kind of see what happens here and we can make changes if need be.

MR. JASINSKI: I want you to understand I didn't step into this with trucks and everything the second time, George brought it up. I am talking about the special use permit for minor things – like a small let's say, like the bee hives, a couple of hives is not a commercial endeavor.

SUPERVISOR EGAN: Okay and again, Bob, that...

MR. JASINSKI: So, that's what I am talking. I mean you're taking special use permits that are very minor and you are charging the same amount you are going for the major ones like you are saying trucks which I agree with you. Personally, commercial...

COUNCILMAN PLUMMER: We're trying to make it easier though to save time. That's something that the way I understand it has been on the books for quite a while. It just hasn't been enforced so we are trying to update things here and make it workable and make it easier. So, it's not as if, you know, we're imposing these fees now but...

SUPERVISOR EGAN: Correct.

COUNCILMAN PLUMMER: Jimmy, I know you were going to say something, I'm sorry.

TOWN ATTORNEY POTTER: Yes, just to confirm the wisdom of the zoning laws that's currently proposed and written. I spoke not long ago at Albany Law School. We went over some hypotheticals and one of the hypotheticals dealt with this portion of the law and it was – what if you had a limo driver or a limo company that had 8 limos, they all might be under the 23 feet and all might be under 8,000 pounds. If you didn't have the limitation of 1 commercial vehicle you could, in theory, run a taxi company or a limo company out of your house in a residential district so the limitation of 1 commercial vehicle does have a benefit in a few very specific situations.

COUNCILMAN KOTARY: Can I jump in?

TOWN ATTORNEY POTTER: Sure.

COUNCILMAN KOTARY: I think that's a really good point and I think one of the things I think we should be doing is looking at the exceptions to the rule and I think this case of somebody is a roofer and they have 2 pickup trucks that they do use for commercial purposes, it does seem to me burdensome to have to go through the site plan review and all of these processes and the fee seems pretty high and to compare that to... if you wanted to have say 3 or 4 limos why couldn't you have for non land use special permits a different fee structure and a fee structure that was per vehicle or per instance so if you did have 2 or say 4 commercial vehicles and say they were pickup trucks, you would pay a fee per vehicle and a fee that would be much smaller and you wouldn't have to go through the zoning board process and so forth. You could just go in, say here's my vehicle, register it, pay a smaller fee and move on.

MR. LEVEILLE: The whole point of the special use permit is to be able to have control over how that use occurs and ..... have to have a plan and conditions and so forth that are associated with that permit based on where we park, when it will be used and you want to talk about special use permit. You have to have at least ... registering the vehicle doesn't mean that it's not going to run in the middle of the night. You have no enforcement that way. You need something to enforce which is where it is, how it's used, when it's used and that permit goes with the property.

SUPERVISOR EGAN: And, can I suggest again and Kyle, I mean the thing is I think we are dealing with an unknown. I don't know as there is anybody that's going to have a problem with this and to try to... this provision is much better than where we were a year ago. I mean, we couldn't answer it a year ago we had so much non-consensus. We seem to have gotten it down to a general consensus that this is much better than where we were. Until we get using it, like Dan said, we may not have any issues with this and to sit and try to deal with every single exception, there's just no way to do that. So, I mean I think this is a lot better than where we were. I think it addresses a lot of the comments that we heard in the process for the last 18 months in regard to the comp plan process. You know and again, if it needs to be changed again, it will need to be changed again. But, right now we are trying to go through and look in such detail with specifics and exclusions, I don't know as there is a problem with that. I mean the biggest issue we had was the people that had pickup trucks that they use as a residential vehicle. That was really the biggest complaint – back me up on that one, we heard over and over again for the 18 months. Recognizing that and again recognizing and, -- Dan, we do have problems -- I mean it's not anything that is huge but I mean I get calls probably in the wintertime twice a week in regard to vehicles of some sort -- pickups, dump trucks -- it goes from all extremes from neighbors that are dealing with that. It's usually in the winter months.

COUNCILMAN PLUMMER: Yes, I would...

SUPERVISOR EGAN: So, I mean, is it a huge problem. It's not a huge problem. Similarly with this language, I don't know that we... I don't know that we have a huge problem with this language. So, and I mean, again, I don't know if there is anything you want to add to that.

MR. WILSON: No, we've kicked the language around a lot ... at the staff level and

there's been a lot ... to try to understand the impact ... of, you know, the various phrasing and frankly we think that this particular one strikes a balance, you know, recognizing that there are commercially registered vehicles that are, in fact, being used as regular family passenger vehicles. We don't want to regulate them. We are also mindful of the scenario where somebody is actively running a business and it is creating a nuisance for the neighbor next door. Those are the ones that we are really trying to get at and capture. Again, ... a total of 4 special permits that have been applied for, I'm not sure... you know... I think, you know, ... probably... I think what you need is more experience with this and maybe make adjustments to the language going forward.

I think what's interesting about this particular conversation is out of all of the changes that... that a... are under consideration now, we are focusing in on commercial vehicles. .... Lot that is going on here in terms of the total number of amendments. That to me says I think we're doing a pretty good job in trying to capture, again, the commitment we made last year... last August to... look here's the list of things that we just didn't get to. Well, we're to that point now. And, I think ... the language that is proposed particularly for the commercial vehicles strikes a reasonable balance.

Fee schedules, well they're not really on the table right now but they're something the Town Board can consider going forward. You may take a tiered approach but the Planning Board also has the ability to waive certain site plan requirements, not necessarily the fees that is subject to the Town Board but the site plan requirements -- let's say for a small, minor or diminimus type of use so you don't have to come in with a survey, grading plan and all the stuff and sort of thing.... There certainly is discretion at the Planning Board level when they are reviewing, again, they are ... special permit and the site plan comprehensively so they have, you know, sort of the big picture and they can make a call, you know, based upon a request from an applicant to waive certain of the information required ... you know, large commercial developer coming with a full grading plan. Somebody who's parking, you know, commercial vehicles in a residential neighborhood – it just doesn't strike me as being terribly onerous to require them to come in for that second vehicle particularly when the Planning Board is possessed with that kind of discretion.

MR. JASINSKI: I'm going to sit down, if I may, but I'll leave you with a parting remark – the next time you look at your beautiful flower or the next time you put honey in your coffee, thank the bee keeper because without them you wouldn't have that. Thank you.

SUPERVISOR EGAN: Thank you. John Mead.

MR. MEAD: Originally I wasn't going to have anything to say but once I sat here and listened to that for quite a while, then I've decided that maybe it's time to talk about it some more. The vehicle in the residential area.

SUPERVISOR EGAN: John, can you tip that a little bit, I don't think they can hear you. Now they can. They're moving up.

MR. MEAD: Okay, now like I have some friends who have – you know, they got a business, they got 2 sons maybe or something and they all have pickup trucks, right. They plow snow, they do things like that – you have to have the truck sitting there so that when you get the call for to go... when the snow is there, you're going to plow in the middle of the night. You are not going to plow when you want to go to the supermarket or something, that's too late then because you're going to be mad by the time you get there. They want that plowed at 2 o'clock in the morning.

SUPERVISOR EGAN: I walk

MR. MEAD: Bet your pardon?

SUPERVISOR EGAN: I'll walk.

MR. MEAD: You'll walk. Anyway, what I am saying is, is that that's going to be a big hindrance to those people because it's pickup truck again, see. Now, I agree with Mr.

Plummer here because he is talking about the second pickup you start into trouble, you know. First pickup you can have there but the second pickup now you're into trouble because it's under 8,000 pounds. Even though, it's not...

COUNCILMAN PLUMMER: Well, in that scenario, Mr. Mead, it would be okay because, you know, if you have 2 pickups and let's say 1 you use just for general use, then you're automatically exempted. Then the next one you use for snow plowing like you said, that would be the 1 that you would allow so you would be able to do it without...

MR. MEAD: But everybody that...

MR. LEVEILLE: And, it's likely they would be under 8,000 pounds.

MR. MEAD: But everybody that goes out with their truck at 3 o'clock in the morning is going to have to have the snowplow. They're not going out to...

COUNCILMAN PLUMMER: That's right.

MR. MEAD: ...with a broom.

COUNCILMAN PLUMMER: Yea, but if you had 2 of them, that's when you would capture one and that's his point even though it's under 8,000 pounds.

MR. LEVEILLE: But, if only 1 would be used for commercial purposes and it's under 8,000 pounds and 22 feet, it captures none of them.

MR. MEAD: And, it may not even be running his business from there.

COUNCILMAN PLUMMER: No, we understand.

MR. MEAD: You are talking about running the business from there. He may not be running the business from there. He has to have the truck over there at that time of day.

MR. LEVEILLE: It would be illegal for him to operate that business from there.

MR. MEAD: He has to have the truck there though at that time of night. Do you want to get up and go... drive off 20 miles down the road somewhere to get the truck so you can go over here and maybe it won't start but you can keep track of it over here and make sure it does, right?

MR. LEVEILLE: My guess is that most of the vehicles that I see plowing snow are less than 8,000 pounds ....

MR. MEAD: Most of them are less than 8,000 pounds. Yes, but...

MR. LEVEILLE: So, they are not be subject to this.

MR. MEAD: Yea, your first one... your first one isn't and your second one is.

MR. LEVEILLE: John, if it's not... if you've got 1 that's used for commercial purposes and it's less than 8,000 pounds or 22 feet, it's exempt. It is permitted. You don't have to get a permit. If you have 2 of them, then you have to get a permit for the second one. It's exempt, it's permitted.

MR. MEAD: You can have 1 that is exempt and have another one...

MR. LEVEILLE: The first one is a passenger vehicle...

MR. MEAD: The first one is exempt anyway.

MR. LEVEILLE: Correct. The second one if it's less than 8,000 pounds or 22 feet is

exempt.

MR. MEAD: You said the first one is exempt.

COUNCILMAN PLUMMER: It is, Mr. Mead, because it is not being used for commercial under the example that you gave.

MRS. NEFF: I think he is saying both are being used for commercial purposes.

MR. MEAD: They're both going to have a snowplow on them when it's snowplow time.

COUNCILMAN PLUMMER: Okay.

MRS. NEFF: ....

MR. LEVEILLE: How many .....

TOWN ATTORNEY POTTER: And, that's also the beauty of a special use permit, is then the Planning Board can evaluate whether this is an appropriate use for the neighborhood.

MR. MEAD: At \$450.

TOWN ATTORNEY POTTER: Well, yea, but by the same token, what do you do about the guy that has 10 snowplows and he says they are all under 8,000 pounds. You know, it's an inappropriate use in a residential neighborhood.

MR. MEAD: Maybe you ought to have a bigger limit. You know what I mean, 10 maybe is a lot to have in somebody's driveway but...

TOWN ATTORNEY POTTER: Some people would regard 1 as a lot and it was prohibited under the prior law.

MR. LEVEILLE: Well remember ... we have residential districts that have minimum lot sizes of 6,000 square feet. So, you start parking a lot of vehicles in a 6,000 square feet plus your house and your yard, it's not a lot of room. It's a small lot.

MR. MEAD: I know for 10 trucks yea.

MR. LEVEILLE: Even for more than 2 it would be a small lot.

SUPERVISOR EGAN: Right.

MR. MEAD: Now, how about a duplex then? Say you got one over here, one over here. How many can you park in those driveways? Same house, duplex.

MR. LEVEILLE: 2 different.....

MR. MEAD: You can have 4 trucks there.

MR. LEVEILLE: Say again.

MR. MEAD: You can have 4 trucks there then.

SUPERVISOR EGAN: You could have... each one could have a non-commercial vehicle and 1 each could have a commercial one as long as the second one was under 8,000 pounds. Correct.

MR. LEVEILLE: It's a big truck.

MR. MEAD: It's a big price though you want too. \$450, that's a lot of money.

MR. LEVEILLE: Well, that's another issue...

SUPERVISOR EGAN: But again, John, in all actuality the neighbor that's listening to those plows go out at 5 in the morning.... I'll tell you what the argument is going to be – I don't care what they are paying, they're out making a buck doing that, you know, let them at least come in and explain and get the special use permit and at least reasonable conditions. So, I mean...

MR. MEAD: That same neighbor is going to have somebody over there plowing their driveway and they're not going to give a dam.

SUPERVISOR EGAN: Agreed but the fact is and I don't want to lose sight of it, we cannot make everybody happy with all of these ordinances and we cannot envision right now every single exception to this. I will tell you there are people and I've got complaints and there are 3 properties and Mark and I could probably talk about off the top of our heads – where there is landscapers that work out of residential homes and they have multiple pickup trucks and that's their answer – there pickup trucks, we shouldn't have to worry about it. Well, let me tell you, those pickup trucks are there at 4:30-5:00 o'clock in the morning putting on trailers, unloading lawn mowers creating, you know, all sorts of noise for their neighbors. I mean there are situations where this happens with just pickup trucks.

So, I mean again, you know, are some people going to be negatively impacted, possibly. Can we make every single person happy in every case, the answer is no because every circumstance is a little bit different. Again, I think we're back to trying to find the balance of what works to... for the most people in the most fairness and equitable way. As we go through this, I mean, as we did a year ago, we started doing this and we found there were problems with this language. As we go through this, if we find there are a lot of people calling and screaming and there is problems with it, then we will revisit it again.

MR. MEAD: Can I ask you something now? Do you know... can you tell me how many people have complained in the last... let's say this year with this same type problem you got?

SUPERVISOR EGAN: Like I... I said to you, I know of 3 parcels off hand where there is continual problems. The 2 ½ years of being here as soon as the seasons change I can tell what the problems are going to be.

MR. MEAD: So, that's only 3 out of the population of how many people you got in Town?

TOWN ATTORNEY POTTER: But, if I can say also, remember too that the commercial vehicles are currently prohibited. So, I am aware of... I represent a landscaper who keeps a commercial property where he parks his commercial vehicles. He does not put them in a residential area. So, while the fact may be that there are only 3 complaints, there are other people who don't do that because it's currently prohibited.

SUPERVISOR EGAN: Right.

MR. MEAD: Yea, there may be. They're start up guys.

TOWN ATTORNEY POTTER: Well, this guy's been around a while.

SUPERVISOR EGAN: No, he's been around for a while.

MR. LEVEILLE: You did say a very good point... they should.....

SUPERVISOR EGAN: Right.

MR. LEVEILLE: You're absolutely right.

SUPERVISOR EGAN: On the duplex issue.

MR. MEAD: Yea, because if you got... well, that's all I got.

SUPERVISOR EGAN: Thank you, John. Nanc.

MS. NEFF: Okay, I know you'll be bummed if I don't say something about the commercial vehicles.

SUPERVISOR EGAN: Can it be something different than what we've already heard?

MS. NEFF: It will be really an easy, quick one. I think if you just raised it to 2 pickups you really wouldn't hurt that many people and... like you... you're going from extremely restrictive to very restrictive. Let's give a little, you know, leeway of the Town for...

SUPERVISOR EGAN: Actually we're going from totally prohibited to allowing a use.

MS. NEFF: Right. I'm saying it's very restrictive or you need a special permit for everything as to...

SUPERVISOR EGAN: No, no, no. What we're going from is under the old one, Nanc, you couldn't do it at all. What we are saying is you are allowed to do it.

MS. NEFF: Okay. I'm not saying your not making a step in the right direction. I'm just saying I think you need to push it a little further.

SUPERVISOR EGAN: Look that's kind of... but, it's kind of big.

MS. NEFF: That's all I'm saying. I don't want to talk about it any more.

The cemeteries – I just want to make a comment about the cemeteries – could we make an exemption for family cemeteries versus commercial or define it as a commercial cemetery versus a family cemetery. So that...

SUPERVISOR EGAN: Hold on we're consulting...

MR. LEVEILLE: ....

MS. NEFF: But, where does it say that?

MR. LEVEILLE: ..... New York State law.

MS. NEFF: Well, New York State Law actually says that if the Town has a law that prohibits it, then it prohibits it. So, right now by saying cemeteries in these areas... you are making all cemeteries fall under that now.

MR. LEVEILLE: The only place it's not permitted is a mixed economic development district.

MS. NEFF: But you still have to get a special permit. So, now you are in a family cemetery... you know... now we're talking... it costs enough to do the funeral or something... okay let's add \$450 on to do a site plan review and a special permit to just add...

MR. LEVEILLE: The intent here was that it was oriented commercial cemetery.

MS. NEFF: Right, and that's.... if you could clarify that I think that would be excellent.

MR. LEVEILLE: .... That will be there.

MS. NEFF: The ag use in residential districts, excellent suggestion. The flag lot requirements, excellent suggestions.

SUPERVISOR EGAN: Wow, keep talking now you can just keep going.

MS. NEFF: Now I can keep going.... Well, now we're going to get to the... what do you call it... residential large lots. Now, when we were doing the comprehensive plan and you know, I went to all those meetings, there was much turmoil over the lot sizes. And, could we not have 2 acre lot sizes, cannot have 2 acre lot sizes. So, we thought everything came around to no 2-acre lot sizes. So, here we are a year later and I know you are going to say these areas are being developed that way. Well, that's great then the market is driving them that way. Let's let the market drive them that way.

Now, half of Orchard Street has little tiny houses and these big houses are being put in across the street from them. There's no reason why on that street you couldn't simply still fit in some of these small houses on small lots. You know, let the people decide how they want to live there. Just because one side of the street is small and one side is the large, I don't think now with these large homes have come in you should require the whole street to change to conform to these new large lots. Let the market drive it. If the market is driving large houses to go in there, let them go in there but you know, there are people across the street that are living on 1/3 of an acre.

Then, I just had a question – you were saying about the major subdivision using an average density base. Is that on the whole parcel or is that on the buildable part of it?

MR. LEVEILLE: It's always on the buildable.

MS. NEFF: That's what I wanted to know... just,

MR. LEVEILLE: It's just simply means that your density... overall density doesn't change but the footprint can change.

MS. NEFF: Okay, that's all I wanted to know with that. I think that's it.

SUPERVISOR EGAN: Great, thank you. Okay, any other comments this evening?

MRS. BAUER: I just want to go back to the price. It is \$550 and I did obtain that from the Town this week. You may be correct that those fee schedules have not changed but I would guess the number of people who need to apply for a special use permit has changed. When I contacted the Town a year ago, to find out if I would be allowed to keep beehives on my property I didn't need a special use permit. Now, a year later I have beehives on my property which I spent \$150 each for but I have to spend \$550 – much more than my hobby costs to get a use permit for that. So, I think Mr. Jasinski's proposal of having a stepped plan, a lower fee for some uses and a higher fee for the commercial uses would make sense.

SUPERVISOR EGAN: I just want to ask a question on this issue and trying to get away from a specific for a minute but if, Mark, what you said was prior to August of last year that bee keeping was a non-precluded use – we weren't regulating, we didn't say you couldn't do it, whatever – okay, August of 2005 we now say you can't do it any more.

MR. PLATEL: Correct.

SUPERVISOR EGAN: Is that not now just a grandfathered use is the question?

MRS. BAUER: I didn't have the hives then.

SUPERVISOR EGAN: Oh, you didn't have it...

MRS. BAUER: I inquired whether I would be able to have them but I didn't install them in the fall. You install beehives in the spring.

SUPERVISOR EGAN: So, at the time you installed you are subject to the new law.

MRS. BAUER: Right.

MR. BENNETT: You're sure you didn't buy them in the springtime?

MRS. BAUER: Now that I think about it, I think you are right.

COUNCILMAN PLUMMER: That's why he is the President of the company.

SUPERVISOR EGAN: And, the company's been around a long time too.

MRS. BAUER: That's the penalty for being honest, right?

MR. BENNETT: Did I hear you say this is a hobby?

MRS. BAUER: You did indeed.

MR. LEVEILLE: Were you informed that there would be a special use permit when you inquired?

MRS. BAUER: No.

MR. LEVEILLE: Okay. Were you told it would be prohibited?

MRS. BAUER: No. I actually didn't get a good answer one way or the other despite repeated attempts.

SUPERVISOR EGAN: Okay – thank you. Any other comments? Okay, let's try to finish up here.

MRS. CARKNER: Okay, no trucks.

MR. LEVEILLE: He's happy.

SUPERVISOR EGAN: Well, he's smiling.

MRS. CARKNER: Hearing about this special use permit and the cost while it may be the same and it was a similar cost or just thereabouts, going back to the prior administration. I just think it might be a wonderful opportunity for you folks to consider as our Town Board today to rectify an inequity in a previous law and graduate those special permit fee schedules according to hobby, business – you know. I mean, my heart goes out to this woman. I mean I had an uncle who had beehives and you know, beehives are great. Bee stings are wonderful for arthritis, in case you didn't know. Anyway, thanks very much.

SUPERVISOR EGAN: Thank you. Linda.

MS. JASINSKI: I'm sure George will agree with me that way back when we started this special permit idea, there was a lot of arguments about it because a lot of us kept saying special permits are not going to be walk in and say here's what I've got, give it to me. And, this goes to prove it. Not only is there the cost of it, there's the time of it. How long does it take to get a special permit?

Now for the person who happens to be – let's say – packing up their whole household to move out of town, they are going to need a moving van there maybe for a couple of days. So, now that becomes overnight, so does that mean they have to go get a special use permit and how long is it going to take to get that special use permit and if they move the moving van between 2 and 3 o'clock does that mean it's not there overnight even though it disturbs all the neighbors so then it gets away with being able to do it. And, one of the biggest facts that I said a thousand times is, the harder it is you make it for people to do things the more red tape, the more money that it's going to cost them, the less you're going to have control over it because those people are going to be doing it under the table behind your back and when nobody knows about it. And, those are the ones that will get away with it whereas the honest person, again, is going to have a hard time.

SUPERVISOR EGAN: Thank you. Any other comments this evening? Great. Before we close I would just again like to congratulate and commend staff and Neil. I know you guys have had several long, day long meetings going through this, as well as, trying to consider all the comments that we've gotten in in the last... well 12 months now as we've gone through this. So, thank you on that.

Going forward, we're looking – George, the end of August, is it the last August meeting, that we are looking to put this on?

MR. LEVEILLE: Yes.

SUPERVISOR EGAN: So, it will be the second meeting in August there will be on the agenda consideration for the adoption of the ordinances and any changes that may occur during now and then.

MR. LEVEILLE: I would think by the end of next week we'll publish a final revision.

SUPERVISOR EGAN: Okay, so that's kind of the game plan going forward. So, thank you again. Do I have a motion to adjourn?

The motion was made by Mr. Kotary and seconded by Mr. Plummer to adjourn the Special Meeting of the Bethlehem Town Board at 7:10 p.m. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Kotary.

Noes: None.

Absent: Mr. Gordon, Mr. Messina.

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Town Clerk