

PLANNING AND ZONING COMMISSION
TOWN OF SOUTHTON

SEPTEMBER 5, 2017

The Planning & Zoning Commission of the Town of Southington held a public hearing & regular meeting on Tuesday, September 5, 2017 at the John Weichsel Municipal Center Assembly Room, 196 North Main Street, Southington, CT. Chairman Michael DelSanto called the meeting to order at 7:00 pm.

The following Commissioners were in attendance:

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| Paul Chaplinsky | James Sinclair |
| Robert Hammersley | Susan Locks |
| Jennifer Clock | Michael DelSanto, Chair |

Alternates: Ross Hart & Ted Cabata

Ex-Officio: Robert Phillips, Director of Planning & Community Development
James Grappone, Assistant Town Engineer
Mark J. Sciota, Deputy Town Mgr/Town Attorney

Absent: James Morelli, Regular Member
Peter Santago & Joe Coviello, Alternates

The Chair seated Mr. Cabata for Mr. Morelli. A quorum determined.

Pledge of Allegiance to the American Flag was recited by everyone in attendance.

4. APPROVAL OF MINUTES

A. Regular Meeting of August 15, 2017

Mr. Sinclair made a motion to approve the Minutes as submitted. Mr. Chaplinsky seconded. Motion passed unanimously on a voice vote.

5. PUBLIC HEARINGS

Mr. Phillips read the legal notice into the record.

A. 1321 Flanders, LLC, Special Permit Application for a garage in excess of three garage spaces, 1321 Flanders Road, in an R-80 zone (SPU #583).

Sev Bovino, Planner with Kratzert & Jones represented the application. The proposal is 1321 Flanders Road. The property is 3.27 acres. The frontage is slightly over the 200-foot requirement. This house is 4,000 sf and the proposal is for a 4-car garage. These two cars and one car facing the street. The home is centered on the property over a slight knoll and then there's a fence and it is set in that location overlooking the valley. This is across from the Novick's Orchard open space.

It's for a for car garage. There are four people in the family with a car.

There are three car garages looking towards Flanders and the other garage faces north. You won't be able to see it from the street.

The appropriate mapping was provided. The aerial map and notifications were done according to the regulations.

(Those speaking in favor of the application.)

None.

(Those speaking against this application.)

None.

Hearing no further comments, the Chair closed this public hearing item.

B. John Senese (Calco Construction & Development, Inc.), Petition to modify the zoning regulations contained within the Business Overlay Zone (BOZ), specifically Sections 4.04 and 9-10 of the Town of Southington Zoning Regulations (ZA #593).

Jeff Fitzgerald, PE with BL Companies, 355 Research in Meriden, CT presented on behalf of the applicant.

He reviewed the proposed recommended changes to the Business Overlay Zone (BOZ).

The BOZ was created for around the West Street area and we're proposing to use it here to apply to land that is a landlocked residential piece east of Queen Street. We are proposing some modifications:

- To the permitted uses, we're proposing to add Section 4.04, Special Exception Uses, that would state the ZBA may after a public hearing and subject to compliance with provisions of Section 9 grant a special exception for the following uses which would include public garages in accordance with Section 11-03.

- Section 4-04 has some standards we are proposing to change:

- that the present BOZ requires that minimum lot area of 8,000 sf land is required for the establishment of a commercial use. We're proposing that Section 4-04.12 be modified in letter (a) that says a minimum lot area of 10,000 sf be required for the establishment of commercial use and activity.

- Delete 4-04.12. b in its entirety. Very large lot sizes originally considered in the West Street area.

- In 4-04.12. d where the original BOZ required a minimum of 25% undeveloped open space provided on the site, we are proposing that the text be modified to read a minimum of 20% open space shall be provided on the site with the additional language that says: pedestrian oriented open space including hardscaped and landscaped areas such as outdoor dining areas or customer waiting areas are encouraged and may be counted towards the minimum open space requirement.

- Section 9-10 on the site plan requirements, there are a couple of changes, Section 9-10.1 says all uses shall be subject to the following requirements and 9-10.1. b originally said all service bays, loading zone areas and commercial trash receptacles shall be properly screened and located in the rear yard. We want to modify that to allow for rear and side yard in these cases so we proposed it be changed to say that all service bays, loading zone areas and commercial trash receptacles shall be properly screened unless otherwise modified by the Commission and shall not be located in the front yard.

Section 9-10.1. f we're modifying the landscape buffer requirements from 20 feet to read: the landscape buffer consisting of a mix of deciduous and conifer trees shall be maintained between the

proposed commercial uses and adjoining residential uses. Such buffer shall be a minimum of 20 feet in depth and shall provide adequate year-round screening. Then with the addition: the Commission may modify the buffer planting and depth requirements where adjacent residential uses are located on BOZ property or where residential uses are separated from the development by roads and the proposal incorporates screening with a 7-foot-high lightproof fence and landscaping on the residential side of the fence.

- Modification to the conflicting signage regulations between the standard zoning code and the BOZ code by removing Section 9-10.1 (c) in its entirety.

- Deleting Section 9-10.2(a) in its entirety as it is not consistent with the Queen Street corridor.

Mr. Hammersley asked the purpose for the modifications, why are they necessary?

Mr. Fitzgerald explained we are proposing to do a commercial development within this BOZ and that was on this site and it needs these modifications to be allowed to be considered by planning & zoning.

Mr. Sinclair said when we turned this from a residential zone to a BOZ, you didn't realize a month ago this didn't work for you?

Mr. Fitzgerald said the applicant was here although he was not. The BOZ, I think there was a misunderstanding of whether it would be the requirements of the adjacent business zone or whether it had its own requirements.

Mr. Sinclair noted a few times during that meeting, residents in the area asked specific questions related to what you are speaking of now. We said what would happen in a BOZ exactly. The Chairman, the Town Planner and the Town Attorney made that clear. Did you not hear that that night?

There is a history here. One thing we said is we were trying not to do this by a thousand cuts, added Mr. Sinclair. Here we are with another application for another modification to get a little bit chipped away, again.

Mr. Fitzgerald had no response.

Mr. Hart said the original document was made to allow development and also protect the neighborhoods. This seems to kind of gut that. This seems to be designed to protect residents who we are supposed to be representing. Why should someone in Southington want this? What good does it do for the average resident?

Mr. Fitzgerald responded the gist is that you are dealing with a unique situation where you have this island of residential surrounded by a business. The concern was originally or desire to be able to have that entire area be business zoned to allow for more development where development like this is appropriate. The concern was if we try and apply a zone change of the business zone on the site, then existing homes would be in nonconformance and so it was recommended that a BOZ would be more appropriate but the BOZ that exists was developed for West Street and there are some minor discrepancies that don't apply. So, we are making these recommendations that were developed with our team in discussion with Southington's Planner just trying to have this BOZ where it works and allows for appropriate commercial development to take place along Queen Street where there had been this residential island.

Mr. Chaplinsky asked the Town Planner to talk a little bit how does this proposal impact --- one concern was how do we preserve what is there now and still allow them to use their land. How does this proposal either benefit them or hurt them? Are there any adverse or negative effects of the proposed changes to any of the residents?

Mr. Phillips responded considering the proposed modifications are in response to a future site plan modification of the area to allow for an additional tenant and building, the reality is that is what they were attempting to do, anyway. This will just enable them to be able to do it. The strict interpretation of the BOZ would require too large of a piece of land at this juncture for their plans.

I don't know if the applicant wants to speak to the overall development plan of the area, but at this point in time they're really just making accommodations for one tenant.

I reviewed the language and I think generally the BOZ is not likely to be located --- the commission would have to approve any future BOZ in town, but I don't see it being utilized in any manner other than this particular situation. I think the potential impacts of these changes are really localized to that area.

I think we removed and replaced the West Street BOZ. This would be the only application for the BOZ.

Mr. Chaplinsky interjected the BOZ on the record in the past was for West Street.

Discussion.

Mr. Fitzgerald said some of the language of that zone doesn't work for this application.

Mr. Hart asked when the original BOZ was drafted, was there any thought that this would apply to development on Queen Street? Mr. Phillips said it was his understanding it was specifically tailored

for West Street development for the greenspace there. Queen Street is a lot of redevelopment, obviously.

Mr. Hart asked about this being applied to areas on the Meriden Waterbury Turnpike. Mr. Phillips said this language couldn't be applied unless the commission approved a zone amendment to allow the overlay. It is very easy to say it is inappropriate for other areas. The Commission would have to find that any zone change to establish the BOZ overlay would have to be found to be consistent with the POCD.

Attorney Sciota interjected. Be careful! This is a business zone and there are a lot of business zones in town. So, for anyone to sit here and tell you right now that you'll be able to stop this from coming into other business zones --- be very careful. This is an overlay zone. This is a text change and not a zone change. I'm not as comfortable saying to you that you can stop any zone change because normally you can't. I can't say it won't come up in another business zone where you will say we don't like it there and that's the end of it. That is not something I could say comfortably to you.

Discussion.

Discussion about a BOZ-2 created for another part of town if the commission felt it more appropriate.

Attorney Sciota stated if this is going to be a business zone, then let it be a business zone. This is inventing a business zone through an overlay zone. You have to be comfortable with that.

Discussion.

This was heard at the last meeting when the neighbors heard it and now this has got to be tailored to meet that. Normally, that does not happen. Normally the overlay zone is approved based upon something they're already looking. It is not a twostep procedure. Attorney Sciota continued to point out his concern is that we're really making this a business zone. How much different is this than a business zone? Are we making it a B zone by any other name but calling it an overlay zone? If that's what you want to do, fine. Just call it what it is. Doing it this way is not fair to everybody in the area. I wish during the July meeting all of these things were talked about at one time. Now you have an overlay zone they can't work with. Procedurally, it is what it is.

Discussion.

Mr. Chaplinsky said a business zone would make all of the residential components nonconforming. I understand the comments.

Those speaking in favor of the application:

1. Roger Swanson, 9 Chaffee Lane. I favor the changes for Upson Drive, Chaffee Lane and Stoughton. They would generate business

interests and add value to the properties. It would benefit the town with a greater tax dollar from future development.

Those speaking against the application:

1. Mark Adams. I own 7 Stoughton and live at 1085 West Center Street, Southington.

You guys already pegged everything I had to speak about. This goes back well over a year. He knew what the overlay zone was back then. If his engineering firm did not read the regulations in the town, he should look for another engineering firm. Ridiculous. Keep coming back and back and back.

This BOZ was for West Street. Why wasn't it changed prior to this application. If it didn't fit, he knew what he bought. He bought to that regulation. You have to do your homework.

You guys voted in favor of the BOZ. We weren't in favor of it. Now, here we are again.

Spoke about putting up 100 low income housing units to make us compliant with the federal government.

If he wants this, he has to come and do it right. Not keep coming back. We've been here five times now or six times. Ridiculous.

It changes the signage. Going for 12.5% of the existing regulation. That's not a minor change.

Service bays? We understand it's AAA. If it's service bays, in the future does it become tire shops in the front yard?

There aren't many buildings on Queen Street that aren't 100 feet away. Most of them are.

Thank you.

2. Tim Stout, 2 Chaffee Lane. The only person this will benefit is him and not the people living there. Smaller buffer zones, smaller fences, it's not benefit to us, at all.

3. Nick Pinto, 52 Squires Drive. I asked at the July meeting for a clarification of what the zone was. There seemed to be confusion about what the BOZ was. It was explained very thoroughly at that meeting. It needed to be 80,000 sf, just short of two acres. It needed to be 200 feet wide, 400 feet deep to meet the requirements. It makes sense to me. Not death by a thousand cuts. You have to accumulate a two-acre lot, certain requirements and then it will be approved.

Discussion.

It appears that everyone who is in favor, if the developer was able to purchase all of that land, he'd be able to meet those requirements. I don't understand why the BOZ would have to change to less than a quarter of an acre to then trigger the BOZ. A lot of concerns, initially.

Discussion.

4. Fiagro Ramierez, 6 Stoughton Road. I want to reiterate what you all said. We'll be back until he's satisfied with what he has achieved. I foresee a strip mall lining Chaffee Lane from front to back. Ten, eight little businesses and we'll be looking at the back of loading docks on Chaffee Lane.

He's putting the cart before the horse. Usually you buy the land and then develop it and go to the PZC. He has not made anybody, to my knowledge, any considerable offers.

I'm still against it and will remain against it.

5. Nick Pint, 62 Squires Drive. I wanted to add about property values. My understanding of the property values was it would be beneficial to the homeowners being commercial is when a developer had to accumulate 80,000 sf lot, then they could build something on it. If a property owner only owns a quarter of an acre and nothing can be built on it, that one lot being sold has no value unless it has the adjacent lots with it. For an increased value to a lot, you have to be able to do something with it. All these property owners on Chaffee, Upson and Stoughton really can't do anything on their own. They have to have a combined lot to do something.

On the flip side, modifying the requirements for the BOZ will allow anybody to develop something but what can you build on 10,000 sf. You still need to have continuous acreage to really build something of value.

Just wanted to add that. I don't think this helps any of the residential property owners because they can't do anything with it commercially unless they sell it to this developer or with adjacent parcels. As a residence, who wants to buy right next to a commercial development that's creeping more and more on to their parcels?

That's all.

6. Leslie Smart, 1 Stoughton Road. My concern is if you're going to make the commercial buildings 10,000 sf and you can put eight of those into 80,000 sf, does that mean I'm going to have eleven dumpsters 500 feet from my home now?

Skunks, rats.

I received a letter but it only covered the 200 by 400 boundaries, the 25 diminished to 20 percent open space and 80 to

10,000. But what about this buffered area with the fence we were promised. Now they're looking to diminish that to a divider?

Those are my concerns.

Rebuttal

Mr. Fitzgerald addressed the buffers. The buffer is intended to be still there and that would include a 7-foot-tall opaque fence with landscaping on the residential side to soften the appearance of the fence. That 7-foot-high opaque fence is in lieu of 20 feet of mixed conifers and deciduous trees. The idea is it allows the buffer to be smaller but be as effective for noise and anything going across the buffer area.

Mr. Chaplinsky noted there are a handful of requests here for zone changes. Are any of these delighters? How many do you absolutely need? I'm sure you've had some layouts and renderings about what you are thinking about. How many are must haves? Which ones are just nice to haves?

Mr. Fitzgerald said there are a few that are not must haves. They were generated to make the application process less confusing. The conflicting signage regulation being a good example. We want to delete the signage regulation in the BOZ as it is kind of conflicting with other signage in the regular business zone or in this area.

Another example is the 10,000-sf minimum lot area. That was initially the language discussed if we are adjacent to an existing B zone of substantial size, which we are in this case, can we make the requirement of the lot area you need to take down in order to do the development less than 80,000 sf. The 10,000 certainly was not a requirement. We'd be comfortable with 20,000.

Discussion.

It was noted there is no current business zone open space requirement.

Discussion.

Attorney Sciota said if you feel that your goal is that you want to use the overlay zone to protect the residents so they don't have to go to the ZBA, this is really turning this into the business zone. It is a BOZ with business regulations in it. This is not usually the procedure.

Mr. Sinclair talked about property values. We asked you a few months ago when you came to change the zone how that would affect the property values. Have you looked at how these regulations would affect the property values? Mr. Fitzgerald responded they have not.

In general, Mr. Fitzgerald commented, the intent originally is to allow business to be a business zone and the BOZ was presented to the

applicant as a way to allow business uses without creating an existing nonconformity for residents that remain. There is misunderstanding on the level of what the BOZ as applied would require on this plot if it had the content from the West Street application.

The applicant, John Senese, 222 Talcot Notch, Farmington. To answer the question on property values, we did the BOZ request to protect the neighbors' interest as far as expansion and so that the use of their property was not impaired. The BOZ has restrictions for further development for business that is attached business. We already had business property around this site.

As you acquire the residential homes to further develop a business, you are coming from a business zone into a BOZ and that's where we have restrictions on the BOZ side that was developed for West Street for a virgin site with no retail around or no business. You carve out a 200 by 400 parcel on West Street and it's now a BOZ development.

This site is 10 acres so you don't have that real estate to have these restrictions within. We are developing the site from the north to the south and from the south to the east. Three sides of it fronts business.

It's difficult to acquire 200 by 400-foot lots. You're impaired by the streets. Explained closing them down.

You have to narrow down the land area you need to develop within to make it feasible for any developer.

We have a plan for the seven lots that wrap around Chaffee, the corner of Upson and connect to the Aldi parking lot. The next phase would be to take out Upson Street and acquire the residential homes down Chaffee Lane. That's our plan for utilizing the site from the light at the 7-Eleven light. We have to have access to Queen Street and we have to provide access for the residential neighborhood to Queen Street which they currently use Chaffee Lane.

Discussion.

Maybe then you go from Stoughton to Enterprise Drive at Home Depot.

Ultimately, the neighborhood should be business because it has a lot of conditions on it that restrict further development. Myself or someone else, these changes need to come together for development. It's too restrictive.

Discussion.

Attorney Sciota stated that that whole conversation should've taken place at the same time. We're here. But in July in talking about the BOZ, that's when you make the modifications to the BOZ. I

had putting this commission in the position of approving something and then a few months later what you approved isn't going to work and we have to look at it again. Staff's frustration in this is that we put this commission in a very difficult spot. They did it and made a difficult decision and now we're here because homework wasn't done. Now they have to make another difficult decision. Staff worked very hard for the July meeting and here we are again.

Mr. Senese said he didn't understand the BOZ and the restrictions.

Discussion.

Mr. Chaplinsky asked if they had a rendering of what impact this may have. I am having a hard time understanding what this will look like if approved.

Discussion.

The preliminary site plan was put on the screen showing the plan that is for the area of development.

Mr. Sinclair asked for a rendering at the next meeting of what it would look like if we don't grant this.

(Discussion on the preliminary site plan on the screen.)

Discussion of the buffer regulation changes.

Hearing no further questions, there has been a request to bring back the overall plan, so the public hearing will be kept open.

Attorney Sciota asked, assuming you purchase everything, could you look very strongly at attaching Interstate Park Drive with the land to the north of you. That mall will come back to this board and give us the right to connect. One of our goals here is alternative access. That would run from Interstate Drive to the north to that strip mall where Bob's is, when looking at your overall plan, that should be one of your major goals. If you buy everything, that'd be a perfect opportunity to connect those two.

Mr. Sinclair stated for clarity, what he had asked for was two renderings: what will you will get with the modification and what you will get for that island as it is written right now. So, we can compare the two.

Mr. Fitzgerald responded he understood the request.

Mr. Phillips added we did see an overall development plan for the whole plan, can you provide that? The applicant affirmed he would provide that.

The Chair stated the public hearing is continued to the 19th of September.

6. BUSINESS MEETING

A. 1321 Flanders, LLC, Special Permit Application for a garage in excess of three garage spaces, 1321 Flanders Road, in an R-80 zone (SPU #583).

Ready for action with the standard stipulations that the garage spaces not be used for commercial purposes.

Mr. Sinclair made a motion to approve with the aforementioned stipulation. Mr. Chaplinsky seconded. Motion passed 7 to 0 on a roll call vote.

B. John Senese (Calco Construction & Development, Inc.), Petition to modify the zoning regulations contained within the Business Overlay Zone (BOZ), specifically Sections 4.04 and 9-10 of the Town of Southington Zoning Regulations (ZA #593).

Mr. Cabata made a motion to table. Mr. Chaplinsky seconded. Motion passed unanimously on a voice vote.

C. Town of Southington, FF and Site Plan application for Water Pollution Plant upgrades to meet NPDES permit requirements; construction of a 10,550-square foot phosphorus removal building and miscellaneous site improvements including odor control, property located at 999 Meriden Waterbury Turnpike (Assessor's Map 032, Parcel 86) I an R-20/25 zone (FF#254/SPR #1738). Tabled from August 15

Attorney Sciota advised we are looking for wetlands approval on this. We're looking for a table tonight. Mr. Sinclair made a motion to approve the table which was seconded by Mr. Chaplinsky. Motion passed unanimously on a voice vote.

D. Festival Fun Parks, LLC, Earth Excavation, application to remove 61,000 yards of material for potential amusement park expansion, parking area or picnic area, 2304 Mount Vernon Road, in an R-40 and R-80 zone (EE#144), tabled from August 15

We received a request to table the next two meetings. Discussion of the timeline.

Attorney Sciota clarified the applicant wanted it continued to the October meeting. So, grant the 65-day extension. And, then move it to the October meeting.

Mr. Chaplinsky stated there are discussions going on with the applicant and other parties. We can't have that testimony now with the commission. Why are we bothering with the extension? Attorney Sciota said procedurally what could happen is that if negotiations don't work out with the neighbors he can come to you and have you vote. Or if he works things out with the neighbors, he'll withdraw. He is leaving his option open.

Discussion.

Mr. Sinclair made a motion to grant a 65-day extension. Second by Mr. Cabata. Motion passed unanimously on a voice vote.

Mr. Sinclair made a motion to table. Mr. Cabata seconded.

Attorney Sciota noted the table would be until October 3rd and it will not be on the next agenda.

Motion passed unanimously on a voice vote.

E. Pergjioni Family Jewelers, request for release of \$6,300 Erosion and Sedimentation bond, 824 South Main Street (SPR #1645), tabled from August 15

Ready for action. Mr. Sinclair so moved the motion for approval. Ms. Clock seconded. Motion passed unanimously on a voice vote.

F. Request for release of \$46,200 subdivision bond, South Farms subdivision, Triano Drive (S#1211.2).

Ready for action. Mr. Sinclair made a motion to approve. Ms. Locks seconded. Motion passed unanimously on a voice vote.

G. Request for release of \$20,000 erosion and sedimentation bond, South Farms subdivision, Triano Drive, (S#1211.3).

Ready for action. Mr. Sinclair so moved the motion to approve. Ms. Locks seconded. Motion passed unanimously on a voice vote.

H. Request for release of \$5,250 erosion and sedimentation bond, Twin Pond Terrace (S#1313).

Ready for action. Mr. Sinclair so moved the motion for approval which was seconded by Mr. Cabata. Motion passed unanimously on a voice vote.

I. Request for release of \$4,320 subdivision bond, Twin Pond Terrace, (S#1313)

Ready for action. Mr. Cabata so moved the motion for approval which Mr. Sinclair seconded. Motion passed unanimously on a voice vote.

J. Request for reduction of subdivision bond to a new amount of \$161,000 Woodland Heights, Loper Street, Phase I (Aspen Way), (S#1312)

Ready for action. Mr. Sinclair made the motion for approval. Ms. Locks seconded. Motion passed unanimously on a voice vote.

K. Request for release of \$9,120 erosion and sedimentation bond, CV Tool, 44 Robert Porter Road (SPR #1680.1)

Ready for action. Mr. Sinclair so moved the motion for approval. Mr. Cabata seconded. Motion passed unanimously on a voice vote.

7. ADMINISTRATIVE ITEMS

Mr. Phillips submitted another copy of the open space regulation revision started a few months ago. Just a couple of minor tweaks based on the last meeting. I've requested a meeting with some of the stakeholders that we had earlier and have not heard back.

I think you were looking for numbers on Recko Farms and I have not heard back on those, either.

The email is out for a request for a meeting. Do you have a preferred direction?

The big issue is should we mandate it as the only option and if so, do we do it on only certain zones like R-80, R-40, R-20. Looking for policy direction on here. We want to get something out.

On Loper Street, Tony did the calculation and we're just waiting on Recko Farms.

The Chair suggested chatting off line about getting some numbers for the next meeting.

8. ITEMS TO SCHEDULE FOR PUBLIC HEARING

- Siobhan S. Costello, Home Occupation application for a one-client-at-a-time Pilates Studio, property located at 58 Todd Road, in an R-20/25 zone (HO #67), September 19

- Denis Bougle, Special Permit application for a detached 40 x 30 garage which will bring the total garage spaces in excess of three, property located at 125 Roaring Book Drive, in an R-80 zone (SPU #584), September 19

- Maria Czop, Special Permit application for a detached 24 x 23 garage and gazebo which will bring the total number of garage spaces in excess of three, property located at 510 Winding Ridge, in an R-80 zone (SPU #585) September 19

These all can be scheduled for September 19th.

9. RECEIPT OF NEW APPLICATIONS

Just the public hearings, we've a FF application and site plan application for Well 2-A for the SWD.

12-lot subdivision application at 1681 Mt. Vernon Road.

A new 23,000 sf building at 157-143 Industrial Drive.

It looks active.

The Chair congratulations Linda Gianoni, who retired recently from her full-time job. We're happy she is still with us doing Minutes. We wish her the very best of luck in any future endeavor.

Congratulations! I hope you enjoy yourself and we'll see you every other Tuesday night here at the meetings.

10. ADJOURNMENT

Mr. Sinclair moved to adjourn which Mr. Cabata seconded.
Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 8:08 o'clock.)