

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION
PUBLIC HEARING HELD ON MONDAY, JULY 27, 2009 AT 7:30 P.M. IN
COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET,
CHESHIRE CT 06410**

Present

Earl Kurtz, Vice Chairman; Martin Cobern, S. Woody Dawson, Patti Flynn-Harris,
Mickey McPhee, Louis Todisco, David Veleber.

Alternates: Leslie Marinaro, John Kardaras, Andy Maye

Absent: Sean Strollo and Tali Maidelis

Staff: Rebecca Augur, Assistant Town Planner

I. CALL TO ORDER

Chairman Kurtz called the public hearing to order at 7:35 p.m.

Chairman Kurtz read the fire safety announcement.

II. ROLL CALL

Acting Secretary Veleber called the roll.

III. DETERMINATION OF QUORUM

Following roll call a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. BUSINESS

Mr. Veleber read the call of public hearing for each application.

Commissioner Todisco was recused from the Elim Park applications. Mr. Maye served as the alternate.

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| 1. | Special Permit Application | PH 6/8/09 |
| | <u>Elim Park Baptist Home Inc.</u> | PH 6/22/09 |
| | Ronald Dischinger | PH 7/13/09 |
| | 140 Cook Hill Road | PH 7/27/09 |
| | Construction of 40 Elder Care Independent Living Apartments | MAD 9/30/09 |
| 2. | Earth Removal, Filling or
Regrading Permit | PH 6/8/09 |
| | <u>Elim Park Baptist Home Inc.</u> | PH 6/22/09 |
| | Ronald Dischinger | PH 7/13/09 |
| | 140 Cook Hill Road | PH 7/27/09 |
| | | MAD 9/30/09 |

3. **Zone Map Change Petition**
Elim Park Baptist Home Inc.
Ronald Dischinger
140 Cook Hill Road

PH 6/8/09
PH 6/22/09
PH 7/13/09
PH 7/27/09
MAD 9/30/09

Attorney William Colwell represented the applicant, and stated that at the end of the last public hearing there were staff questions to be addressed, and all have been addressed by the applicant. Also, the State DPH requested removal or withdraw discharge towards the wetland area so there was no discharge within 100 feet. The plans have been revised to this effect, and IWW deemed the modification to be in the best interests of the wetlands.

Henry Thomas, Landscape Architect, LLC Group, reviewed the IWW modifications and adjustments made to remove storm water outlet points to 100 feet from the watercourse. He pointed out the primary outlet on the site plans. To accommodate the shift in the location of the outlet, some space was made to adjust grading for the detention basin. There was a minor reconfiguration of the parking spaces to adjust the dimension of the islands to pick up the lost spaces and 5 were picked up. However, 2 parking spaces were lost, but there are 10 spaces beyond the requirement.

There were grading adjustments, and additional landscape adjustments, and the parking lot remained the same. With the wetlands there was a modest adjustment to the outlet, and it is now joined with an existing outlet.

Fire Department comments have been addressed, and Mr. Thomas reviewed some of them including use of mountable curbs, dimensional adjustments, and he pointed out the curbs on the plan at the entrance of the new building inside the island. The Fire Department requested additional fire access lane perpendicular to one of the wings of the building, giving them opportunity to be closer to the building. This is a grass paver fire line with concrete paver filled with turf, and there was adjustment to location of plant materials and grading, and the staging area for a fire truck was widened to 14 feet.

According to Mr. Thomas, the applicant has addressed all the Fire Department comments, and other comments from Town staff will be addressed during the building permit process.

Ms. Augur confirmed that all staff comments have been addressed.

There were no further comments or questions; the public hearing was closed.

Commissioner Todisco was recused from the Newton application. Mr. Maye served as the alternate.

4. Special Permit Application
Joanne S & Kenneth Newtown
515 Oakridge Drive
Section 30, Sch. A. 18C
In Home Business for Private
Swimming lessons

PH 6/22/09
PH 7/13/09
PH 7/27/09
MAD 9/30/09

Attorney Anthony Fazzone represented the applicant, and stated that revisions to the plan have been submitted. These revisions show the area proposed to be used for swim lessons, and the area of the pool which will have portable barricades and be partitioned for the family's exclusive use. Attorney Fazzone submitted an exhibit showing some of the revisions with respect to the Assessor's record and the use, including his calculation and the Assessor's calculation.

Applicant's Exhibit #5 – Newton, 515 Oak Ridge Drive, Finished Space Area, Square Feet (calculations)

At the last hearing, Mr. Fazzone said there was a concentration on the issue that the regulation Section 32, Para. 18-C, and the question around accessory buildings. It was pointed out by Mr. Fazzone that there is no definition of an accessory building in the regulations; there is reference to accessory buildings in Section 32.2.5 using the word "detached".

Before Mrs. Newton proceeded to put up the swimming pool enclosure she discussed it with the Building and Planning Department staff. She came away with the feeling that if the building were attached to her house and put it on a foundation, she would meet the requirements of Para. 18-C.

Applicant's Exhibit #6 – Photograph of the vestibule which Mrs. Newton intends to attach the building to her house.

Mr. Fazzone said it is the same material put on a foundation, is shown on the proposed plans, and will be the same material and construction as the pool enclosure.

Mr. Fazzone stated that the Commission has to interpret the regulations because there is no guidance in them which states what is and what is not an accessory building. He commented on the lessons being an outdoor activity in which an enclosed building is attached to a dwelling. If someone gave music lessons in an acoustical room, or had an artist studio added to their home, Mr. Fazzone said if these people came before the Commission to give lessons, the PZC would have to make a decision and it would be easy. Those rooms are part of the dwelling unit and the lessons would be allowed.

Comparing the applicant's exhibit which shows they meet the 25% requirement, Mr. Fazzone said that in addition to using the Assessor's dimension of the basement, he deducted a foot from the dimensions of the house and increased the area to be reserved for the exclusive family use.

Parking is shown on the site plan. With respect to the exhibit which was introduced and talked about the vestibule and accessory use, Mr. Fazzone said that in researching other decisions it can be seen that the determination is driven by the local regulations. This Commission does not have much help in the regulations and needs to make the decision. Based on the revised calculations, the Newtons will still be under 25%.

Mr. Fazzone cited another difficult issues which the Commission must distinguish is between the building itself and the special permit use that is being sought. The building itself is allowed; there is a building permit issued; the building will remain whether or not the special permit is granted. It is a question of whether or not swim lessons should be permitted within the building that encloses the pool; and whether or not it is anticipated this would cause unreasonable noise and traffic.

It was stated by Mr. Fazzone that Mrs. Newton's lessons are one person at a time for a half hour lesson; no other employees; no one else will be engaged to give lessons; and on a good day it is expected 8 lessons will be given. There are 23 homes on Oak Ridge and Deerfield Road, and these lessons mean 16 trips, which will not be an unreasonable increase or burden to the traffic in the area.

At the last hearing Mrs. Newton said she would propose giving lessons from 9 a.m. to 6 p.m., Monday through Friday, and Saturday, 9 a.m. to noon for adult lessons. A proposed list of stipulations was submitted by Mr. Fazzone for the record, and they include, the time frames noted, lessons limited to one student, no parking on the street, and no additional lighting of the pool enclosure.

Applicant's Exhibit #7 – Proposed Stipulations.

According to Mr. Fazzone the applicant would not use the pool from November through February when the days are shorter, so not additional lighting would be required.

Applicant's Exhibit #8 and #9 – letters in support of her application.

Ms. Augur read the letters into the record from Mr. Black and Ms. Simoneau.

After visiting the subject property and in looking at the proposed vestibule to be attached to the house, Mr. Veleber asked where it would be attached.

In reply, Mr. Fazzone said it would be attached on both ends, and he noted the location on the site plan. The photograph is the type of structure planned, and it will have a foundation.

Ms. Flynn-Harris asked for more detail on the blocking off of the homeowner's personal space with portable barriers. She asked if the applicant is telling the Commission there will be family space blocked off with portable barriers while there are lessons going on, and these barriers are taken down when the family uses the entire pool.

Mr. Fazzone said that was correct...the barriers would be removed when the family uses the pool.

Ms. Flynn-Harris commented on this being a stretch of the square footage requirements. The applicant is saying it is flexible; it can be changed from one side of the pool to another; and this is not staying within the regulations.

His prior example was reiterated by Mr. Fazzone about someone giving piano lessons in a living room, with exclusion of the students from using that portion of the house, and only include the area where the piano is located.

Ms. Flynn-Harris said the Commission would find that stretching the regulations as well. For all the in-home instructional uses the Commission has had, there was a specific square footage delineated which meets the requirements. And, this application is too loose.

Mr. Kurtz noted that it was stated that when lessons are being given, no one else is in the structure, no family members or anyone else. The lessons are one on one teaching. If people are being kept out of the section for family, he asked if this means Mrs. Newton needs that area to give the lesson.

It was stated by Mr. Fazzone that what Mrs. Newton really needs is the area for the person to get from the vestibule entrance into the pool, and lessons are given exclusively in a lane in the pool area.

If no one is allowed to be in the structure at the time of the lesson, Mr. Kurtz asked why the area for family use needs to be blocked off.

Mr. Fazzone said someone could be sitting in that area...a family member...but it would be an area to keep the family's pool furniture, toys, equipment which are not used in the swimming lessons.

Under Permitted Uses, 18-B, Mr. Kurtz read an excerpt into the record:

"The office or enterprise shall not impair the residential character of the premises, and there shall be no evidence of operation outside the dwelling

unit except permitted signs. The use shall be completely enclosed in the building and shall have no outside storage or display windows”.

Mr. Kurtz noted that the whole structure is a window, and anything taking place on a hot day would not allow the structure to be closed, as no one could survive that heat.

Joanne Newton, applicant, stated that an experiment was conducted on how hot it was in the pool enclosure, and said that once you are in the water you are not hot anymore and the heat was bearable. The side walls of the structure are polycarbonate and they are see-through. She said that a viewing window is for display of a product. Mrs. Newton explained that she spoke to Planning Department staff (Mr. Voelker and Ms. Murphy) about her proposal, and showed the brochure picture. No one said anything to her at that time about not having all windows, or she would not be here at this hearing now. She thinks that staff would have sent her on the correct path when she proposed her plan to them. She asked for their thoughts; both liked the plan; and with the viewing windows she thought staff agreed it would be okay, and could be attached to the vestibule making it part of the dwelling unit. Mrs. Newton said she went with the assumption that she was all set. In two years something should have been said over that period of time.

Mr. Dawson explained to Mrs. Newton that Mr. Voelker and Ms. Murphy can like something, but they do not vote.

Stating she understood this, Mrs. Newton said they gave her the list of what must be done to meet regulations for a home based business, and checked it off together. At no time did she say the building could not be done.

Mr. Dawson said that staff can advise people about the rules and regulations, but they do not know what the Commission members think without hearing the entire application.

It was stated by Mrs. Newton that for a building made of polycarbonate, which is clear, the PZC and staff should have the same interpretation. She would not have an application if she knew it would not meet regulations.

Mr. Fazzone pointed out there is no direction in the regulations. He heard the Commission state at the last hearing that the entire building is a display window. But, display windows display products and advertise.

The regulation 18-B was raised again by Mr. Kurtz, who said there should be no evidence of operation outside the dwelling unit, and how this will be done.

Mr. Fazzone stated this is something the Commission must determine...whether or not this is an accessory building as part of the dwelling unit, and is not outside.

He said a grand piano in a bay window with someone giving music lessons is not evidence of the business outside the dwelling unit.

PUBLIC COMMENTS

Terese Keizer, 526 Oak Ridge Drive, said she just found out the vestibule will be of the same material as the pool enclosure. This is an ugly structure now, and the accessory building has no roof and opening for air. She is opposed to the structure and vestibule attached will make it stand out more.

John Mulvaney, 521 Oak Ridge Drive, said he is the adjoining property owner, with his yard 35 feet from the applicant's property. He expressed hope that PZC members visited the subject property and neighborhood.

Mr. Mulvaney submitted a photograph of the applicant's accessory building looking west from the Mulvaney backyard. When the pool building is open, the pool is fully exposed, with a 30 foot opening. Mr. Mulvaney also submitted a spreadsheet which notes the changing representation of how much square footage there is for the house, building, how much will be reserved, and how much will be for lessons. He reviewed the time line from October 2008 through July 2009, the changes in the square footage increasing the home size by 405 sq. ft.; the basement was no longer 900 sq. ft. as comments and Assessor's card shows, but was 1033 sq. ft. Also, the applicant has included a porch (not assessed at all) as part of the living space/dwelling, 400 sq. ft. Now, the pool building has been attached to the square footage, with 325 sq. ft. reserved for family space.

At the last public hearing the original submittal of square footage stayed the same, but the applicant is reserving 286 sq. ft. from that submittal. On July 2nd, a map was submitted after the public hearing, calling for 400 sq. ft. of reserved space. Mr. Mulvaney noted that the numbers change on a regular basis, and he has no idea what the current map shows.

Mr. Mulvaney asked the Commission to pay attention to the shell game going on here, the changing of facts to suit the applicant's purpose.

Using the map of July 27 and July 2, Mr. Mulvaney said if you look carefully, there is 36 feet of pool perimeter which will not be accessible during lessons because it is set for private family use. This private use space goes right up to the edge of the pool, over 36 feet run of the pool. Part of this 36 foot run of the pool blocks off one of the two ladders from the pool. At the end of the pool there is 20 feet of the pool perimeter which does have about 18 inches of accessible deck for access. One half of the pool perimeter is completely blocked off, and Mr. Mulvaney cited this as a significant safety issue.

According to Mr. Mulvaney, the ever changing dimensions are to meet the 25% requirement, and they have nothing to do with what is needed for lessons, what is lesson space.

Another point raised by Mr. Mulvaney, which has not been addressed, is there is still no sanitary certificate with this proposal, but the applicant is planning to build a bathroom. There is an incomplete sanitation document in their original application, where it is stated there will be no facilities, and now they are saying they will construct facilities.

With regard to other zoning cases and whether or not they support this application, Mr. Mulvaney noted that Attorney Fazzone took pains to say these cases were not relevant, but offered nothing in return or discussed any specifics on why this was not so. Mr. Mulvaney cited *Daughters of St. Paul vs. Trumbull Zoning Board*, in which the court concluded the garage was not part of the dwelling unit, even though it was connected by a glass breeze way (similar to the applicant's proposal). The factors looked at in this case for the garage were that the building stood on its own foundation apart from the dwelling unit; building had four walls, none in common with the dwelling unit; building had a roof line with no points in common with the dwelling unit; the construction materials of the garage and walkway and the dwelling unit were dissimilar; the walkway had its own roof, and the roof was not part of the other parts of the house.

Mr. Mulvaney commented on the applicant stating that the pool and enclosure are part of the dwelling unit, but offers no authority to back those claims, while cited cases say just the opposite. Considering the court's conclusions, an objective person looking at this pool building and dwelling unit will not conclude they are one and the same. At the top of the *Trumbull* case, it is stated it is assumed that the zoning authority intended to accomplish a reasonable and rationale result.

Connected or not, Mr. Mulvaney said it does not mean this is no longer an accessory building. Regarding Section 32.2.5, reference to accessory building as being detached, Mr. Mulvaney said it talks about detached accessory and he read the characteristics for the buildings into the record.

The issue of property values was raised by Mr. Mulvaney who stated that residents are looking to the Commission to protect property values, and asked that the Commission not negate the regulations by approving this use. The negative result of approval will be lowering of property values, and this is why lessons are required to be "in a dwelling unit and not in an accessory building, and there be no evidence of the operation outside the dwelling unit."

Mr. Mulvaney stated this is not an attached building; it is an accessory building whether attached or not, and this makes all the space calculations go out of the water. There should be no evidence of the operation outside the dwelling unit. It

is clear from the photograph there will be evidence of the operation outside the dwelling unit. Granting of the permit is requiring the Commission to have suspension of disbelief. Mr. Mulvaney asked the Commission to deny the special permit because the application and use do not comply with the zoning regulations.

Chris Plumley, Sir Walter Drive, spoke in support of the Newton application for a home business to teach children and adults pool safety and how to swim. He said Mrs. Newton taught his daughter how to swim at Cheshire Academy, and she never used a whistle or raised her voice. There has been discussion about additional noise and traffic, and Mr. Plumley said people hear noise every day in their lives. He commented on a coach's whistle being 105 decibels; lawn mower having 120 decibels; leaf blower with 100 decibels; a house blender with 100 decibels. He advised the people in opposition to the application to keep things in perspective. He said the Newtons did not decide to invest a great deal of money in a pool and enclosure and go through the application process to alienate their neighbors. They did not do it to create more traffic and more noise. Their family loves swimming, and the Newtons built the pool and enclosure. Mr. Plumley cited statistics on drowning...in 2005, 3600 drownings in the U.S.; drowning is the 2nd leading cause of unintentional injury related deaths for children under the age of 14. Mrs. Newton wants to teach people, young and old, how to swim and be safe around a body of water. He hopes the PZC will take all the information into account, and approve the home based business. More businesses like this are needed in Town and children would be safer.

For the record, Mr. Cobern advised he visited the property. To him, the structure is less intrusive than in the photographs. He also said this is one of the most enjoyable public hearings before the Commission, where both sides stuck to the facts, knew the regulations, and presented their cases eloquently.

In a special permit decision, Mr. Cobern explained that the Commission has a certain amount of discretion into interpretation of the rules. In this case he agrees the service being performed is valuable and even life saving. On numerous occasions the Commission has approved in-law apartments which were attached with a vestibule and considered part of the same building. The glass enclosure, the windows, etc. do not, to him, represent what is called "display windows". The visibility of the lessons will be there, but apart from a lower level of activity, it would be impossible to tell whether it's a lesson or the family using the pool. On those particular requirements, Mr. Cobern said he comes down on the side of the applicant.

Unfortunately, Mr. Cobern said there is a mathematical calculation involved here...the fraction of the residence being used. He cited his view of the calculations. The applicant is asking for a dual use of the property, and the regulations are set up so the residential uses will not infringe on the business and the business will not infringe on the residential use.

Going back to the example used as a benchmark...someone giving piano or music lessons in their family room, and saying only half of the room is devoted to the lesson. Mr. Cobern would find that as an unacceptable definition because regardless of whether construction cones or emergency tape is used, other family members cannot watch TV or read without interfering with the music lesson.

We have a similar situation in this application with regard to the pool. Mr. Cobern said that Mrs. Newton testified in a response to his question about whether the lessons would be going on in addition to the family pool activities. Mrs. Newton made the statement that her family knows that when there are lessons, they are not to come into the pool area. So, when lessons are being given, Mr. Cobern interprets that to mean the entire pool area, even the roped off area, would be devoted to this use.

While he is entirely sympathetic to the applicant, Mr. Cobern said he will have to vote against the application because the use exceeds 25% of the limit stipulated in the regulations.

Ms. Flynn-Harris commented on Attorney Fazzone being right that there is no clear definition within the regulations of accessory buildings. But looking at Section 32, Dimensional Requirements, the first word for accessory buildings is "detached". When there is no definition in law, case law takes precedence. There have been many applications before the Commission discussing accessory buildings and uses, and Ms. Flynn-Harris said they have always been detached buildings. She agreed with Mr. Fazzone that definitions need to be clarified.

With regard to the square footage, Ms. Flynn-Harris said this bothers her because it is a stretch to define this area as a dwelling. Mr. Cobern alluded to watching TV, but it also means sleeping, eating, etc. and this is part of the dwelling unit. This is why there has not been a problem with attaching a detached in-law apartment to a residence...it is still a dwelling. The issue with Ms. Flynn-Harris on the subject application is trying to attach it with this enclosed space, and it is stretching it. It is a pool area; it is not a dwelling area; and no resident of that family will ever dwell in that area.

Attorney Fazzone stated that Mr. Mulvaney said the area blocked off, or remaining area, "has nothing to do with what they need for a lesson". This is quite the contrary. The area needed to give the lesson is available, including the area on the end of the pool included in the lesson use, where Mrs. Newton would be in the pool with the person, and the one ladder is included for getting in and out of the pool. Regarding his not having offered any cases to the contrary, Mr. Fazzone said it is all driven by the regulation, and there are no court cases to

interpret Cheshire's regulations as to what is an accessory and what is not an accessory.

Ms. Marinaro asked about the present square footages.

Stating he did not think the Assessor's records are exact, Mr. Fazzone said he tried to address the comments made at the last hearing. He assumed comments made are correct, and the basement only has 900 sq. ft.; that the measurements were outside but he made them all inside measurements; and to meet the 25%, he is asking the Commission to recognize they can block off a portion of the pool not needed for lessons. This is what they would do; block off that portion of the pool area not needed for lessons to get to the 25%.

Commissioners Kurtz, Flynn-Harris, McPhee, Marinaro, Dawson, Maye, Cobern and Veleber confirmed that they had visited the subject property, individually.

There were no further comments or questions. The public hearing was closed.

Commissioner Todisco was recused from the Town of Cheshire application. Mr. Maye served as the alternate.

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| 5. Special Permit Application | PH 7/13/09 |
| <u>Town of Cheshire</u> | PH 7/27/09 |
| 1286 Waterbury Road | MAD 9/30/09 |
| To install Hoop House and | |
| Expansion of the Town Garage | |

Joseph Michaelangelo, Public Works Director, Town of Cheshire, reviewed the outstanding issues from the last public hearing, which included a request for a clearer plan for the proposed addition in relation to the new building and location of the hoop house. These have been supplied and submitted. With regard to the 14 foot height of the doors to 16 feet, Mr. Michaelangelo reported that the only time 16 feet would be required would be for a loader or backhoe on a flatbed pulled into the garage. This is the exception rather than the rule, and the mechanics can work with the 14 foot door height.

Engineering Department comments from Warren Disbrow about mitigating the storm water runoff coming from the site have been addressed. There will be on site infiltration, which Mr. Disbrow has accepted. There was also a question about floor drains and the sanitary sewer capacity, and these have been addressed to the satisfaction of Mr. Disbrow. Regarding the parking spaces, the plan delineates 20 spaces, and these are for the employees, and there are rarely visitors to the building.

Ms. Augur read staff comments into the record from Warren Disbrow, Engineering Department.

Mr. Dawson asked about the temporary trailers and if a decision has been made about them.

In that regard, Mr. Michaelangelo said they can be removed from the site. There is a trailer to the north, visible from the road, but this is not part of the subject property.

Mr. Dawson commented on these trailers being ugly, and that it is not fair to the residents of the area or the community to have them there.

Regarding Fire Department comments, Mr. McPhee asked if there is a requirement for a sprinkler system in the addition.

This was discussed with the Fire Department, and Mr. Michaelangelo said the criteria for sprinklers will be determined after the final design. Making the existing north wall a fire wall will not require sprinklers, but if they are required by the fire marshal, they will be installed.

Mr. McPhee said he wants to insure that everything is done correctly, and nothing is overlooked.

Ms. Augur reported she spoke with Fire Marshal Kozlowski, who advised the criteria depends on the use of the building as well as the square footage, and construction type. This still needs to be worked out, and Mr. Kozlowski will be working this out when it comes to a building permit.

There were no further questions or comments. The public hearing was closed.

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| 6. | Special Permit Application
<u>RLJ Properties LLC</u>
680 South Main Street
Add 2-2 bedroom apartments to
Existing office building
APPLICATION WITHDRAWN | PH 7/27/09
MAD 9/30/09 |
| 7. | Special Permit Application
<u>Bohler Engineering</u>
850 South Main Street (McDonalds)
Continuation of existing fast food
Drive thru after the raze and rebuild
To the existing facility. | PH 7/27/09
MAD 9/30/09 |

John Kucich, P.E., Adam Guilmett, McDonald's representative and Rachael Deane, owner of the Cheshire McDonald's were present for the applicant.

Mr. Kucich reviewed the rendering of the proposed new building. He said the existing building will be demolished and a new building constructed on the site. The applicant is requesting a special permit for the development and has met with staff to review the plans, incorporating staff comments, and has met with IWW to insure the applicant is outside their jurisdiction.

The property is at 850 South Main Street; is 1.5 acres in a C-3 Zone; and is surrounded by other commercial properties. The existing building is 4350 sq. ft. with a drive-through; has 61 parking spaces; the building is centrally located on the lot; there are 2 curb cuts; and the existing building is square shape, and the drive-through lane interferes with the parking spaces. The existing building will be demolished, and a new building constructed, 3880 sq. ft. in size. There will not be an outside freezer; drive-throughs will remain; parking spaces will be reduced to 48 spaces which complies with the regulations, and meets the operational needs. There will be 2100 sq. ft. of new green space; the layout is similar to the existing building with one way circulation around the building; and the new feature proposed is a side by side drive-through. All new McDonald's have this side by side drive-through, and Mr. Kucich pointed them out on the plans. This process cars quicker; it reduces waiting time; and there are two people processing orders.

There will be a trash enclosure and recycling bin on the exterior of the building. New landscaping, lighting, and existing utilities are available to the property and will be connected. There is no water quality treatment on the property at this time, and to do something about this, catch basins were added. Drainage will go towards the Mill River, and a sediment chamber will be added to provide additional treatment.

Mr. Kucich displayed the architectural rendering of the new building which has an improved look, with one sign on the front. Another sign may be proposed at 32 square feet and will comply with the regulations.

Mr. Cobern asked about traffic control where the two drive-through lanes merge.

There will be two order takers with a computerized system. Orders are not released together. One computer is locked until the other car moves forward, and Mr. Kucich said this is a better system, and there will never be a situation where each car moves forward at the same time.

Ms. Deane reported that the current operating hours of the McDonald's are 5 a.m. to midnight and they will remain the same.

Concerns were expressed by Mr. Cobern because it seems the new structure has fewer windows, and the interior will be less visible from the street. He asked about security in the late hours.

According to Mr. Kucich this is the standard type of construction in many communities, and he is not aware of any security concerns. This building is closer to the street and will be more visible than the existing one.

Regarding the requirements for new applications for special permits on the east side of Main Street to include a 50 foot right of way at the rear for possible future construction of a service road to relieve traffic on Route 10, Mr. Cobern asked if this was part of the original application.

Stating this is the first time he has heard of this, Mr. Kucich said there is a large grass area in the rear, without wetlands, and the parking is about 100 feet from the rear.

Mr. Cobern realized that McDonald's is south of the area for this service road, and withdrew his comments.

For the parking spaces reduced to 48, Ms. Flynn-Harris noted the plan requires 52 spaces.

On the plans it shows 48 spaces, and Mr. Kucich said some changes were made to the last rendering, and the official plans show 48 spaces.

Ms. Flynn-Harris asked about changes in the lighting plan, and with the building coming closer to Route 10, she asked where the plan is, and its impact on South Main Street.

Sheet C-11 is the lighting plan and Mr. Kucich said it will not impact South Main Street because the building is set back 50 feet. The drive-through will be lit for safety purposes; there is green space for additional lighting; and he pointed out the lights on the plan, about 40 feet from the street. The exit lights are .6 and the entrance side is 1 to 1.5 to 3.

With two drive-throughs, Ms. Marinaro asked if the purpose is to increase business, and if this will increase traffic. She also asked about the impact onto South Main Street, with the new CVS store.

Part of the experience is to make a good experience for the customer, and Mr. Kucich said there will be a reduction from a traffic standpoint, with the drive-throughs having wider aisles.

Adam Guilmett stated that McDonald's takes traffic off the road; it does not add traffic to the roadway; and is not seen as a destination such as a WalMart. There will be an increase in traffic at the grand opening, and then it will go back to normal daily traffic.

Ms. Marinaro asked about demolition of the existing building, trucks in and out on the high traffic roadway, paving considerations using new environmentally safe materials.

For paving, Mr. Kucich said there will be full asphalt paving materials, and it will be full depth.

Since this is a redevelopment project, Mr. Kucich said there is not much earth work involved. The demolition will take about one week, during business hours, and if there is an impact on traffic, the applicant will hire a police department detail. The overall project should take between 90 and 120 days, and this depends on the contractor.

Mr. Dawson commented on the building looking like brick and mortar, and the existing building is more attractive than the proposed building. He said something must be done to dress up the building. The windows on the current building are more attractive, and he asked if the building could be made more attractive, more colonial, more inviting and add beauty to the Town.

Ms. Marinaro commented on the CVS having a typical building which they build, and when they came to the north end of Town one of the requirements was to try and keep it in harmony and character with the rest of the neighborhood.

Mr. Dawson said that people in Cheshire and businesses build beautiful properties, making them look nice, and put in large investments. He cited Glastonbury CT as a beautiful community, and a town he likes. He strives to have Cheshire improved and enhanced with new commercial development.

Mr. Kurtz stated he likes the color of the proposed new building, and it is more neutral than the existing building.

In response to a question about other new McDonald buildings in this area of the State, Ms. Deane said there is one in North Haven and one in West Haven.

Mr. Todisco asked why the building was moved closer to the street, still meeting the 50 foot setback, and he considers this undesirable.

From a business standpoint, Mr. Kucich said this is beneficial, to be closer to the street for impulse purchases. Moving the building back further impacts the drive-through lanes.

Mr. Todisco said the area behind the building is a grass area, and asked if there would be eating outside.

According to Mr. Kucich, no tables will be outside the building, but there is a lawn area.

Ms. Deane reported that 70% of the business is drive-through, and traffic queues onto Route 10. The two drive-through lanes will assist in moving customers quicker, without queuing on Route 10.

Ms. Augur read staff comments into the record from the Police Department dated July 21, 2009; RWA dated July 27, 2009, and Planning and Engineering Departments dated July 21, 2009.

On behalf of the applicant, Mr. Kucich said there are no issues with the staff comments and all will be addressed.

With regard to parking spaces in front of the dumpster, Mr. Kurtz asked if this will be addressed.

Mr. Kucich said there are two comment letters from Engineering and Planning Departments. The spaces in front of the dumpster can be eliminated. There has not been submission to the Beautification Committee at this time. The applicant will go with the sign submitted with the application per the sign regulations.

There were not further questions or comments. The public hearing was closed.

VI. ADJOURNMENT

MOTION by Mr. Cobern; seconded by Ms. Flynn-Harris.

MOVED to adjourn the public hearing at 9:25 p.m

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk