

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION SPECIAL MEETING HELD IMMEDIATELY FOLLOWING THE 7:30 P.M PUBLIC HEARING ON WEDNESDAY, OCTOBER 11, 2017 IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Earl J. Kurtz III, Chairman; Sean Stollo, Vice Chairman; David Veleber, Secretary; Members: S. Woody Dawson, Edward Gaudio, Gil Linder, John Kardaras, Louis Todisco.

Alternates – Jeff Natale and Jim Jinks

Absent: Vincent Lentini and Jon Fisher (Alternate)

I. CALL TO ORDER

Mr. Kurtz called the special meeting to order at 7:41 p.m.

II. ROLL CALL

The Clerk called the roll and a quorum was determined to be present.

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. ACCEPTANCE OF MINUTES: PUBLIC HEARING 9/25/17 and REGULAR MEETING 9/25/17

MOTION by Mr. Veleber; seconded by Mr. Stollo

MOVED that the minutes of the Public Hearing of 9/25/17 and Regular Meeting of 9/25/17 be approved subject to corrections, additions, deletions.

Correction: Mr. Jinks was present; and the abstention vote should read 5-0-3.

VOTE The motion passed unanimously by those present.

VI. COMMUNICATIONS

- 1. Discussion RE: PA 17-160 (An Act Establishing a Manufacturer Permit for Farm Breweries)(**
- 2. Discussion RE: PA 17-232 (An Act Establishing a Farm Distillery Manufacturer Permit and their legislative summaries).**

These items were moved to the end of the agenda.

VII. UNFINISHED BUSINESS

Mr. Jinks was the alternate for the Stapleton application.

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| <p>1. Special Permit Application
<u>Lori Fine Stapleton</u>
191 Brook Lane
Private Singing Lessons (in-home business)</p> | <p>PH 10/11/17
MAD 12/15/17</p> |
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MOTION by Mr. Dawson; seconded by Mr. Veleber.

MOVED that the Cheshire Planning and Zoning Commission finds that this application to offer singing instruction at 191 Brook Lane is consistent with Section 30, Schedule A, Item 18C of the Cheshire Zoning Regulations and Section 40 (Special Permits) of the Cheshire Zoning Regulations and hereby approves this application. This approval is conditioned upon compliance with comments from the Cheshire Fire Department dated October 11, 2017.

VOTE The motion passed unanimously by those present.

Mr. Natale was the alternate for the remainder of the special meeting.

Mr. Gaudio stated he is familiar with the record of the applications.

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| <p>2. Waiver Request of Clearview Farm Preserve
<u>Mountain Road/Cornwall Avenue</u>
Pursuant to Section 11.1 <u>Variances or Waivers</u>
<u>Of Regulations</u>
Requesting a waiver of Section 6.5 <u>Intersections</u></p> | <p>PH 9/11/17
PH 7/24/17
PH 7/10/17
MAD 11/15/17</p> |
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MOTION by Mr. Dawson; seconded by Mr. Kardaras.

MOVED that the Cheshire Planning and Zoning Commission finds that this waiver request is supported by the record and that the applicant has satisfied the requirements for a Waiver/Variance set forth within Section 11.1 of the Cheshire Subdivision Regulations and hereby grants this waiver.

Discussion

Mr. Veleber said when it comes to separation it is a good regulation to have. Unfortunately, there was a screw-up with Sorgham Mill and this stub was approved as part of the previous subdivision application. This is a good regulation, but the application would take away the previously approved subdivision capability because Sorghum Mill would encroach. He is in favor of the motion.

Mr. Todisco commented on there being concerns with two left turns being made, and there is evidence in the record this would be rare, cars exiting both streets at the same time and turning left. There is no creation of a dangerous situation with this waiver which is a significant part of the regulations.

Mr. Natale stated agreement with these statements. He is not thrilled with these separations, but the applicant is in a tough spot with the prior application. He will support the waiver request.

VOTE The motion passed unanimously by those present.

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| 3. Waiver request of Clearview Farm Preserve
 <u>Mountain Road/Cornwall Avenue</u>
 Pursuant to Section 11.1 <u>Variances or Waiver</u>
 <u>Of Regulations</u>
 Requesting a waiver of Section 6.10.1 <u>Sidewalks</u> | PH 9/11/17
PH 7/24/17
MAD 11/15/17 |
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MOTION by Mr. Dawson; seconded by Mr. Strollo.

MOVED that the Cheshire Planning and Zoning Commission finds that this waiver request is supported by the record and that the applicant has satisfied the requirements for a Waiver/Variance set forth within Section 11.1 of the Cheshire Subdivision Regulations and hereby grants this waiver.

Discussion

Chairman Kurtz stated this makes sense, there are no houses there, and a sidewalk to nowhere. He will vote in favor.

Mr. Veleber said the current situation is the current owner (Smallwood house) will have the HOA maintaining this sidewalk as long as Dr. Smallwood owns the property. He asked if this is the Commission's understanding. With sale of the house the responsibility for the sidewalk goes with the new property owner.

Mr. Todisco said the record is clear. The HOA maintains the sidewalk while Dr. Smallwood owns the property. He said the Commission should not make any assumptions on what happens after that time.

Mr. Dawson stated his agreement with statements of other Commissioners about the sidewalks.

VOTE The motion passed unanimously by those present.

4. Resubdivision Application
Clearview Farm Preserve LLC
Cornwall Avenue/Mountain Road
12-lots

PH 9/11/17
PH 7/10/17
PH 7/24/17
MAD 11/15/17

MOTION by Mr. Dawson; seconded by Mr. Strollo.

MOVED that the Cheshire Planning and Zoning Commission finds that the proposed Clearview Farms Subdivision as shown on plans entitled "Clearview Farm Preserve, 947 Cornwall Avenue, Cheshire, Connecticut" revised through September 11, 2017 are consistent with the requirements set forth within the Cheshire Subdivision Regulations with the exception of Section 6.5 and 6.10.1 as waived by the Commission and the Cheshire Zoning Regulations. The Commission takes note of the approval and conditions of the Cheshire Inland Wetlands and Watercourses Commission approval granted on September 5, 2017, and hereby approves this application conditioned upon compliance with the following:

1. Comments from the Cheshire Fire Department dated June 26, 2017
2. Comments from the Cheshire Police Department dated June 26, 2017
3. Comments from the Regional Water Authority dated July 12, 2017
4. Comments from the Connecticut Department of Energy and Environmental Protection, Bureau of Natural Resources, Wildlife Division, dated July 11, 2017
5. Comments from the Town Engineer dated September 7, 2017.

Discussion

Mr. Natale stated his disappointment that the applicant did not choose to keep the public hearing opened, did not feel the public had adequate opportunity to review information received at the last meeting. The Commissioners did not have the opportunity for review or ask questions at that meeting. With 63 days the PZC does not meet in August, so there are 30 to 31 days without meetings, and the public cannot make statements. It was brought up in the public hearings that title researchers or someone buying a lot or house, looking through property records, may or may not see the dump next door. He wanted to hear more about this, and something added where a title researcher would find this information, and a potential homeowner would see the dump site in their backyard. Mr. Natale understands the proceeds from the sale of the subject property will rehab the dump, but there are no guarantees this will happen. He does not believe the public or Commission had adequate time to review information from the last meeting.

Mr. Linder stated there was enough time at several public hearings on this application, and does not recall any major pieces of new information received other than the analysis done and given to the Commission.

According to Mr. Natale there were some maps.

Stating this was an emotional application, especially for the homeowners, Mr. Linder said that considering all the topics discussed from water runoff, the dump, condition of animals in the area being disrupted, new lots near the forested open space area, traffic situation at the end of the new street, he through hard about this application. He does not see anything compelling for him to vote “no” on the application. Based on the developer going through the proper channels, including IWW, many discussions about capping the dump, knowing this will not be on the deeds...this will not be a secret. He said any attorney representing a potential home purchaser would be incompetent not to search the records, or interview the real estate agent. Mr. Linder said there are ethical rules and regulations for real estate agents to disclose issues before a property is conveyed. The dump issues is not that mysterious for potential homeowners. Mr. Linder will vote in favor of the application.

Mr. Todisco shares the thoughts of Mr. Natale on holding open the public hearing, and noted one public hearing was extended to 11:30 p.m. There was much testimony and information shared, full discussion of issues on both sides, and adequate chance for everyone to have their say. Regarding the subdivision map, Mr. Todisco said there should be some indication on this map. What we have here is an applicant seeking to put an R-20 zone subdivision in the area zoned for that. This area is proper for this subdivision and this decision was made a long time ago. The developer meets the requirements of the subdivision regulations. When someone meets the regulations, Mr. Todisco said the Commission has little discretion to deny the application. He also said the runoff issue was properly handled by the developer. The additional traffic is miniscule with this subdivision on Mountain Road, and the application cannot be denied on that basis. Mr. Todisco will vote in favor of the application.

Mr. Veleber still has some unanswered questions, has thoroughly reviewed the materials from both sides, and although he recognizes concerns of the neighbors, he feels obligated to vote in favor of the application because it complies with the regulations of the zone designed for this type of subdivision.

Mr. Dawson thinks it was a tough road in the beginning, and he had concerns about water runoff. The developer and engineer worked on this, did research, came back and said it will work. The Commission must follow the rules and regulations regardless of who owns or does not own what land, and make a decision based on good judgment.

Mr. Natale is disappointed, but must vote with the regulations, and he will vote in favor of the application. He wanted his reservations on the record.

Mr. Gaudio agrees with statements made by Commissioners, but must vote by the regulations. He has reviewed all the information on this application, and agrees the application should be approved.,

Chairman Kurtz commented on this being a conventional subdivision allowed in the regulations, and said the applicant and the public did a great job in getting information to the Commission. Everyone had enough time to speak; there were meetings and people spoke and stated their mind. He will vote to support the motion to approve the application. Mr. Kurtz believes that with the sale of the property the dump will be capped.

VOTE The motion passed unanimously by those present.

5. TABLED APPLICATIONS

- a. **Waiver Request of Section 25.5 Subsection
98 and 11 for Earth Removal, Filling, or
Regrading (Waiver Request 25.3.2)
Cheshire Medical Associates LLC
266 and 292 South Main Street
TABLED FOR PUBLIC HEARING ON OCTOBER 24, 2017**

- b. **Earth Removal, Filling, or Regrading Permit
Cheshire Medical Associates LLC
266 and 292 South Main Street
TABLED FOR PUBLIC HEARING ON OCTOBER 24, 2017**

- c. **Combined application for Zone Change to and
Approval as a Special Development District (S.D.D.)
And Approval of Special Design Project
Westvest Inc.
266 and 292 South Main Street
Cheshire Medical Office Building
TABLED FOR PUBLIC HEARING ON OCTOBER 24, 2017**

VIII. NEW BUSINESS

- 1. **Zone Text Amendment
Planning and Zoning Commission
To amend Section 24 Nonconformities
24.2 Discontinuance and
24.7 Casualty
SET FOR OCTOBER 24, 2017**

Chairman Kurtz brought Agenda Item VI Communications to current status.

VI. COMMUNICATIONS

- 1. Discussion RE: PA 17-160 (An Act Establishing a Manufacturer Permit for Farm Breweries)(**
- 2. Discussion RE: PA 17-232 (An Act Establishing a Farm Distillery Manufacturer Permit and their legislative summaries).**

Town Planner Voelker reported these are two new permit categories – farm breweries and farm distillery. They enable the production and sale of beer and distilled spirits from farm properties as set forth within each statute. He noted farm wineries have been permitted in Connecticut for several years, and there is one in Wallingford CT. This is another way for farmers to earn extra income for their property, other than turning it into a subdivision. Mr. Voelker expects Cheshire will see a brewery or distillery at some point. A special permit is needed, and there is an enabled right for a qualified farm to host such businesses.

Chairman Kurtz stated the permit would be for tasting beer and distilled spirits, and then purchasing what someone wants to buy. There is no bar setup, and no food is served.

IX. ADJOURNMENT

MOTION by Mr. Natale; seconded by Mr. Veleber

MOVED to adjourn the special meeting at 8:10 p.m.

VOTE The motion passed unanimously by those present.

ATTEST:

MARILYN W. MILTON, CLERK