

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION SPECIAL MEETING/PUBLIC HEARING HELD ON MONDAY, NOVEMBER 13, 2017 AT 7:30 P.M. 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, John Kardaras, Vincent Lentini, Louis Todisco.  
Alternate – Jeff Natale  
Absent: Edward Gaudio and Gil Linder; Alternates Jon Fischer and Jim Jinks

**I. CALL TO ORDER**

Mr. Kurtz called the public hearing to order at 7:31 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. BUSINESS**

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

1. **Waiver Request of Section 25.5 Subsection 9 and 11 for Earth Removal, Filling, or Regrading (Waiver Request 25.3.2)  
Cheshire Medical Associates LLC  
266 and 292 South Main Street  
TABLED AT REQUEST OF APPLICANT** PH 10/24/17  
PH 11/13/17  
MAD 01/17/18
2. **Earth Removal, Filling or Regrading Permit  
Cheshire Medical Associates LLC  
266 and 292 South Main Street  
TABLED AT REQUEST OF APPLICANT** PH 10/24/17  
PH 11/13/17  
MAD 01/17/18
3. **Combined application for Zone Change to and Approval as a Special Development District (S.D.D.) and Approval of Special Design Project  
Cheshire Medical Associates LLC  
266 and 292 South Main Street  
Cheshire Medical Office Building  
TABLED AT REQUEST OF APPLICANT** PH 10/24/17  
PH 11/13/17  
MAD 01/17/18

**4. Zone Text Change Petition PH 11/13/17**  
**Planning and Zoning Commission**  
**Section 23 Nonconformities**  
**Section 24.2 Discontinuance and**  
**Section 24.7 Casualty**  
**To amend the section per PA No. 17-39**

Mr. Voelker read the memorandum on PA No. 17-39 from Town Attorney Joseph Schwartz, dated August 1, 2017 into the record of the meeting. This memorandum is attached to the minutes. The underlined text was added to C.G.S. 8-2, which deals with zoning regulations, what can and cannot be included. Mr. Voelker read the current and new (underlined) regulations into the record.

Cheshire Zoning Regulations 24.2 – Discontinuance and 24.7 Casualty

The Commission was informed by Mr. Voelker that the amendment to CGS 8-2 PA No. 17-39 take the place of the current Cheshire regulations. The current regulations are unusable against the statute.

An example was cited by Mr. Voelker. A non-conforming house, built in the 1800's burns down, and the owner has a year (under current regulations) to reconstruct the house where it stood. With the amendment to the statute, the owner would still have the right to build the house on the foundation five years later; cannot increase the size of the house; and can continue the non-conformity.

CRCOG Memorandum, dated 10/20/17, was read into the record by Mr. Voelker.

It was stated by Mr. Veleber that passage of time is not evidence of abandonment in the future...it does not matter.

Mr. Voelker read the Planning Department staff memo dated 11/8/17 into the record.

A question was asked by Mr. Kardaras about having more open regulations which allow for more non-conforming uses to remain in perpetuity.

According to Mr. Voelker this begs another policy question; it is a broader policy question; and the statute brings the community in line with the comprehensive plan. The amended statute does this, and brings the statute in line as it is now written.

Mr. Kardaras said his issue is trying to see people's intents.

Most of this will not be seen by the PZC, and Mr. Voelker said most of it will be seen in the Planning Department.

With the non-conformity after a year of abandonment, Mr. Kurtz asked whether this goes back, i.e. 10 years.

The years do not mean anything anymore, and Mr. Voelker said this appears to go along with transfer of property to a new owner. A change of use would be "intent". This would be the same with an historical house that is torn down...it can be rebuilt in the same spot. He said the law is the law, and the Commission must adopt the new regulations. Until now, enforcement was one year, and that no longer applies. There may be some tests given to the new regulations.

Mr. Todisco said he would abstain from voting on the amendments to the zoning regulations because he did not have meeting information (packet) in a timely manner to review the information.

A few of the Commissioners stated they did not receive their meeting packets on time and before the meeting. This was, probably, due to the November 11<sup>th</sup> Friday holiday with no mail delivery. Mr. Voelker advised that the Commission could carry this matter to its next regular meeting for action.

Mr. Todisco stated he does not believe there is a "need" about this regulation issue, and the Commission should not rush to do anything on this matter. He questioned having the regulations exactly as written by the Town Attorney.

In response, Mr. Voelker noted this is a small amendment based on a statutory change.

The public hearing was closed by Chairman Kurtz.

## **VI. ADJOURNMENT**

MOTION by Mr. Voelker; seconded by Mr. Kardaras

MOVED to adjourn the public hearing at 7:57 p.m.

VOTE           The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk

