

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON WEDNESDAY, OCTOBER 16, 2019, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Earl J. Kurtz III, Chairman; Jeff Natale, Secretary.

Members: Matthew Bowman, S. Woody Dawson, John Kardaras, Gil Linder, Louis Todisco.

Alternates: Robert Anderson, Tom Selmont and Donald Walsh

Absent: Robert Brucato and Sean Strollo

Staff: William Voelker, Town Planner

I. CALL TO ORDER

Chairman Kurtz called the public hearing to order at 7:31 p.m.

Chairman Kurtz read the emergency public service notice.

II. ROLL CALL

The Clerk called the roll.

Mr. Anderson and Mr. Walsh served as the alternates for the public hearing.

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

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|----|-------------------------------------|---------------------|
| 1. | Special Permit Application | PH 9/23/19 |
| | <u>Brodach Builders Inc.</u> | PH 10/16/19 |
| | 5 Copper Valley Court | MAD 12/20/19 |
| | Rear Lot Access | |
| 2. | Subdivision Application | PH 9/23/19 |
| | <u>Brodach Builders Inc.</u> | PH 10/16/19 |
| | Copper Valley Court | MAD 12/20/19 |
| | 4-lots | |

Town Planner Voelker read comments from the Town Engineering Department dated 10/15/19 and Cheshire Fire Department dated 10/16/19 into the record.

Attorney Anthony Fazzino, Two Towne Center, Cheshire CT and Ryan McEvoy, P.E. Milone & MacBroom LLC, Cheshire CT, represented the applicant.

Mr. McEvoy summarized the changes to the application.

- IWW determination suggests providing non-encroachment markets and buffer on lot #3 near the Honey Pot Brook.
- Engineering and CFD comments were discussed at the last meeting. Engineering Department commented on the sanitary sewer easement from lot #1 traveling from Copper Valley Court to Honey Pot Brook interceptor to the rear. Engineering suggested incorporating the remaining area of the Club, lot #4, into the system as well for future tie-in; this has been added to the Subdivision Map.
- FEMA requires the applicant to show a 100 year flood plain; it is in close proximity to the Brook; topographically there is no inflow to any of the proposed lots.
- Town Engineer Nolte had comments on the limits of the sidewalk and curb along Copper Valley Court repair and replacement, and this would occur in the future if the application receives approval.

CFD and Fire Marshal's office – there was a meeting with the applicant, and updates to the plans were provided to address CFD comments. Mr. McEvoy reviewed the updates for the record.

In response to a question on the length of the road, off the main road, to the last house, Mr. McEvoy said it is about 300 feet on the access way, and additional 345 feet to the terminus of the rear lot access way. He noted that the regulations are specific on when a fire sprinkler system is required...it has to do with the length of the rear lot access way. The plans call for lots 1 and 2 to be closer to Copper Valley Court, served by a 12 foot paved driveway; lots 2 and 3 will have a 20 ft. x 20 ft. turn around area adjacent to the house; it will have a gravel surface with top soil, lined with grass lined pavers; and it will apparent to anyone using the area that emergency services can back up into this area. There were also suggestions for additional futures for the lots with sprinklers and fire alarms, which the applicant has agreed to provide.

Mr. Bowman clarified that the applicant is clearly within the regulations and a sprinkler system is not required.

Town Planner Voelker read the regulation into the record, which says greater than 600 feet requires a sprinkler system.

It was clarified by Mr. McEvoy that the 300 feet starts at the cul de sac and not from Copper Valley Court, and 350 feet is the measurement required from a long rear lot access way, more than one driveway.

Mr. Natale talked about the private sanitary sewer system easement to the tennis club, this entire area being considered lot #4, and asked if anything happening on this property in the future having access to the sewer system. He also asked about lot #3, CFD trucks having ability to turn around, and the increase in the width of the driveway.

The Commission was informed by Mr. McEvoy that fire trucks do not, generally, turn around...they back out. This has been provided for in the plans.

With regard to the turn around with stone and grass coming through, Mr. Walsh asked about maintenance of this area, i.e. the homeowners caring for this common area.

There is a base material for vehicles to park, and Mr. McEvoy said it has top soil and grass. CFD requires lining with something more durable and visible. The pavers are similar to those at MacNamara Field.

Mr. Walsh mentioned the letter from the neighbor, Mr. Yacavone, and asked if the issues cited are settled and resolved.

Regarding the comments in the neighbor's letter, Mr. McEvoy said the larger asphalt parking drains through the Yacavone property. There is a half acre of impervious surface, sheet flows to the rear and towards the Yacavone back yard and follows the topography to the northwest of the house. The neighbor's concern is the parking area has caused some erosion problems on their property. At the last meeting there was discussion about measures to be incorporated as part of the plan. With the proposal for a residential lot there, most of the asphalt will be removed and landscaped and this will be a tremendous benefit in terms of the runoff. Rain gardens are being provided, and the soil and grass will be suitable for infiltration, and with new infiltration measures runoff will be directed towards lot #2 and not the neighbor's property. With the concern about trees, the applicant has discussed this, and is prepared to stake out the limits of the property line for the trees. The rain garden from lot #1 to the Yacavone property line is estimated to be about 60 feet.

Mr. Todisco asked about the rear lot access way being 300 feet, and the driveway from the end of the rear lot access way being 345 feet. The driveway is longer than the rear lot access way, and he asked if the rear lot access way is wider than the driveway.

The Commission was told by Mr. McEvoy that the paved portion of the rear lot access way is 15 feet wide, with two 6 foot gravel shoulders, for a total of 27 feet wide. Looking at the rear lot access way you will see the 15 foot paved surface with vegetation over time. The applicant is proposing for lot #3 to have a 15 foot paved portion down to the house. The current slope to the club house is 15%; the slope would have to be steeper to keep the grading for a reasonable amount of cuts and fills; and a 9% slope can be maintained going down to the house.

From the end of the existing proposed rear lot access way to the property, Mr. Todisco said the access way will not be extended because of the extra fill etc. needed.

According to Mr. McEvoy this is in addition to the 27 foot section and a circular turn around would be difficult due to the nature of the grades in that area.

Mr. Todisco stated there appears to be no land characteristics or obstacles that would have prevented a full public road along the length of the rear lot access way...i.e. no ledge etc.

Mr. McEvoy said the difference between a rear lot access way and town road is that it cannot go more than 350 feet, and there are no restrictions on a town road. To build a town road there is no limitation as there is with a rear lot access way. It would not be feasible to grade out the area and it is not in a location to support future development of the tennis club.

It was pointed out by Mr. Bowman that the garage floor at lot #1 could be raised to 201 feet with the road at 200 feet, and then pitch the driveway towards the road rather than towards the Yacavone property. This would alleviate more potential water going in the other direction, towards the rear of the lots. He asked if this could easily be done.

This could be done and Mr. McEvoy said there could be more excavation on the north side.

The grade from the circular turn around to lot #3 was questioned by Mr. Linder.

Mr. McEvoy said the grade of the turn-around is 198 to 200 feet; the grade to the rear lot is 172 feet; a difference of 26 to 28 feet; and the grade is 9% going down. The maximum is 10%, and 9% is acceptable.

Mr. Anderson questioned the statement that draining will be towards lot #2.

In reply, Mr. McEvoy said the drainage will be pitched from the parking to areas towards the Brook. Today it drains from the Yacavone property and some rear portions of lots on Copper Valley Court. The proposal is that lot #1 not have the parking area that drains there today, creating a portion of the lot towards lot #2. The recommendation is to take it to the next level so there are little or no impervious surfaces, with flow passing through lot #2 and #3 to the Brook. There is still sloping in some direction, no change in the ultimate drainage, and runoff from the Copper Valley property will be greatly reduced.

Mr. Dawson stated this makes sense, and this is what he was alluding to.

This is all gravel, and Mr. Bowman said the grade there is good, and raising the road takes impervious surface away from the Yacavone property.

PUBLIC COMMENTS AND QUESTIONS

John Yacavone, 15 Copper Valley Court, informed the Commission that his residential property most closely abuts the proposed new subdivision. He thanked the Commission and town staff for accepting and considering the comments made in his letter of September 18th, since he and his were unable to attend the meeting held on September 23rd. Mr. Yacavone read written comments, and they were submitted as part of the record.

Based on the plans and map on file, Mr. Yacavone said the total distance between his house and the lot #1 structure is about 140 feet; the driveway of the first house is running parallel to Copper Valley Court, 40 feet from the curb line; and it appears the mutual property line is between 25 and 30 feet off the side of his driveway. Given these short distances, he may wish to install some sections of solid fencing in the future, and the property line needs to be marked out in some visible fashion, which has not been done to this point in time.

Mr. Yacavone commented on at least five (5) substantial trees close to the property line; two trees being four (4) feet in diameter at the base, about 80 feet tall, with branches overhanging his driveway. He has these trees trimmed, had a steel cable installed on one multi-trunk tree, and is willing to continue this maintenance. At this time, he does not know which trees he owns, and which ones would be left standing by the developer and/or a future homeowner. Since the project has all the data, he questioned why a few stakes could not be put in the ground now.

Mr. Yacavone talked about driving through this area of town, the attractiveness of this section of the roadway, the aesthetics being welcoming, and the favorable appearance of the area and homes set back from the street with ample yard space. He has always been thankful and appreciative of the spacing and visibility, and nothing looks squeezed in. Under the applicant's proposal it will be a different situation in terms of appearance of the neighborhood.

There has been much talk about screening here and there and everywhere, and he questions the discussions about screening. Mr. Yacavone said the answer is obvious in that the tennis club still owns a large parcel of land, with little remaining street frontage. He said there are three factors driving the design configuration. The first is limited public street frontage; the second is the desire of the club to leave existing tennis facilities in tact; the third is the desire of the proponents to construct not one (1) but three (3) houses on the public street. Mr. Yacavone stated he doubts the club will be satisfied for very long with a small building, a type of caddy shack structure, as opposed to something new in the lawn area to the left. The net result is a new club driveway, with a 6 foot high white plastic fence, new line of planted Arbor Vides, 15 foot wide

common driveway or access road, gravel beds on each side, more screening, a house driveway coming off the access road on the street side, 40 feet in, running parallel to Copper Valley Court, and whatever trees remain being 28 feet from his driveway. He visualizes this as “clutter” in comparison to other surrounding properties.

Mr. Yacavone stated a more favorable appearance could be made by a single house facing the street in the parking lot area without the access road and all the rest. He thanked the Commission for the opportunity to present his comments and concerns about the application.

Mr. Todisco informed the Commission that he visited the property over the weekend.

The Commission was told by Mr. McEvoy that the applicant is willing to stake out the property line before any construction takes place, and it will be staked and marked for the trees. This will be done within the next few months.

Regarding the trees and one falling down or damaged, Mr. McEvoy advised the applicant will deal with this accordingly after he takes over the property.

Mr. Dawson understands the situation, knows the layout of this land, and has heard the testimony of Mr. Yacavone and his maintenance of the trees, while not knowing who owns the trees, or where the property line is located. With both sides coming to a settlement, Mr. Dawson could then make a decision in good conscience.

For the record, Attorney Fazzone stated that the applicant, Mr. Brodach, has agreed to stake out the boundary line when he takes ownership of the property. Between Mr. Brodach and Mr. Yacavone they can determine who owns the trees. He noted there is a fairly wooded area between the parking lot and the Yacavone home.

Mr. Linder talked about the statement of “clutter look” by Mr. Yacavone compared to existing properties. He mentioned future development of this property, and the Commission not looking at the non-application of the tennis courts which are not being subdivided. He said Mr. Yacavone made a good point that the way the three properties are being presented to the Commission is not in accord with the rest of the neighborhood. These are three rear lots, with creation of these lots and a long driveway. If the Commission knew what the future development of the tennis courts would be, a comprehensive decision could be made. Mr. Linder said the Commission is being prevented from looking at the entire parcel, which may or may not be developed in the future. The Commission is being forced to decide on three (3) lots but prevented from looking at the future.

It was stated by Mr. Natale that the Commission is not looking at three (3) lots, but four (4) lot subdivision...and he asked if this was correct.

Mr. Voelker explained that the tennis courts and clubhouse have a special permit use under the regulations. They are not proposing to establish those, as they are already established. The applicant is proposing three (3) lots, and the remaining land is not being addressed.

For clarification, Mr. Natale said lot #4 is not part of the application, and will continue to be tennis courts, and the Commission is talking about three (3) lots.

If the owners of the tennis club wanted to build a new club house it would be a special permit, require a public hearing, and public testimony at that time.

Mr. Dawson said there is the right to have foresight, and the Commission trying to make a decision, look at the whole picture, laws, etc.

PUBLIC COMMENTS AND QUESTIONS

John Mahar, President, Copper Valley Club, talked about lot #4, which will not be subdivided. The club by-laws state the property must go to open space or a charity. Regarding the club's financial situation, he said it is good; they are not losing money; and the club will only be a tennis club, a non-profit organization.

For a cul de sac in an R-40 Zone, in Cheshire, Mr. Bowman asked for clarification on how many lots are permitted.

Town Planner Voelker said the maximum number of lots served by a cul de sac is 16.

With the proposed application being approved, Mr. Bowman said there would be 14 lots. There cannot be more than two additional lots, and this answers the question.

Mr. McEvoy advised there are 12 acres left.

With 12 acres, Mr. Bowman said the most that can be done under the regulations is two additional lots.

The Commission was informed by Mr. Mahar that the club is investing money into its facility. Courts are in good shape; more fencing will be done; and the club is buying more tennis equipment. The goal is to have a tennis and racket ball club. The club hosts some Parks and Rec tennis lesson programs, and also has members from surrounding communities.

There was a brief discussion about the club by-laws, remaining property being open space, the property could be donated to charity if the club closes, how the club can subdivide the subject lots but not some other property, and the amount of land for non-profit is designated by the town. The club's current by-laws only allow the land to be donated to a charity.

Attorney Fazzone summarized the application. There are two applications, one is special permit under Section 40, and Mr. Fazzone read the section's preamble into the record. Under the special permit provisions, the applicant must fall within certain provisions, including the question of clutter.

Section 40.4.1 - This section talks about size and intensity of the proposed use; the proposed use is a residential use in a residential neighborhood where homes, which are consistent with the neighborhood will be built. It is a three (3) lot subdivision, similar to all the uses around it other than the tennis club. It is quality design; traffic is not an issue; Wolf Hill Road is the largest road; changes to the application were made by working with CFD and the Fire Marshal; the application meets the special permit section of the regulations which talk about providing fire, police, ambulance access. The property has public water and sewer; there is ample capacity for a three (3) subdivision; there are three (3) lots on six (6) acres, without impact on water or sewer services. Mr. Fazzone said nothing in the application is directly contrary or prohibited by the special permit regulations.

Rear Lot Access Way – there are three different sections of the subdivision regulations that deal with rear lot access ways. 0-600 feet; 600-1000 feet; and over 1000 feet. For over 600 feet there is a requirement for sprinkler systems on all the homes. In all respects, the proposed subdivision meets all the specifications of the rear lot access way requirements.

Attorney Fazzone read the provisions of a rear lot access way language into the record. He said a full sized town road for a cul de sac would not be logical or practical, and requiring this would be expensive, with the town maintaining this road.

Without additional land from the club (which is not willing to give up additional land, and must meet certain land requirements to maintain its non-profit status), Mr. Fazzone said the club intends to stay where it is, and has been there since 1959. It is fair to say a town road on this property is not in the foreseeable future. The club does not intent to further subdivide the property and make room for a town road.

Mr. Fazzone said there has been a change in the parking regulations and that is where the club parking lot is located, with an entrance. He said this is a situation where the Commission is not mandated to avoid a rear lot.

There are factors involved, and Mr. Fazzone cited them for the record.

- a public road would involve more impervious surface than the subject application;
- there are difficulties in building something wider to get down into the steep slopes;
- there are physical and site conditions discussed;
- and everything makes creation of a rear lot practical and desirable;
- within the neighborhood there is not existing public road for connection;

The PZC has the authority to approve a rear lot access way, which is the best way to develop this property.

In looking at the property, Mr. Natale asked about someone pulling out of the new shared driveway and someone pulling out of the tennis club...and ability to see cars coming out of the club...and having a stop sign to avoid a collision.

Mr. McEvoy noted the driveways are about 20 to 30 feet apart, and there is ability to see cars coming. There is not much vegetation on this land.

PUBLIC

Mr. Yacavone stated his appreciation of Attorney Fazzone's thorough and frank discussion. He takes issue with the point of this being only a three (3) lot subdivision and there are residential subdivisions all over the area. Mr. Yacavone is not aware of any subdivision where houses are not on a public street.

Town Planner Voelker clarified that there are subdivisions which are not on a public street.

There were no further questions or comments. Chairman Kurtz closed the public hearing.

VI. ADJOURNMENT

MOTION by Mr. Natale; seconded by Mr. Linder.

MOVED to adjourn the public hearing at 8:45 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk