

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, MAY 11, 2020 AT 7:30 P.M. VIA VIDEO TELECONFERENCE (PER EXECUTIVE ORDER OF THE GOVERNOR OF CONNECTICUT)

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Public comments accepted at Comments@cheshirect.org and by voice mail message at 203 271-6638. Video will be available on Channel 14 and on demand at www.cheshirect.org as soon as possible.*

Present

Earl J. Kurtz III, Chairman; Sean Strollo, Vice Chairman; Jeff Natale, Secretary;
Members: Matthew Bowman, Robert Brucato, John Kardaras, Gil Linder, Louis Todisco.
Alternates: Robert Anderson, Casey Downes, Tom Selmont
Staff: William Voelker, Town Planner; Suzanne Simone, Environmental Planner

I. CALL TO ORDER

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

II. ROLL CALL

Secretary Natale called the roll.

III. DETERMINATION OF QUORUM

Following roll call, it was determined that a quorum was present for the public hearing.

Secretary Natale read the call of public hearing for the applications.

Commissioner Downes was the alternate for the public hearing.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. BUSINESS

1. **Zone Map change Petition**
Bartlett Headquarters LLC
2055 Meriden Road
R-80 to C-3

PH 5/11/20
MAD 7/15/20

John McCarthy, 40 Maple Avenue, Wolcott CT, represented the applicant, Bartlett Headquarters, LLC.

Mr. McCarthy stated the map of the property is in the file record, and staff memo of M Town Planner Voelker clearly outlines the zone change request. The application is for a zone change on .40 acres of property from Residential 80 (R80) to Commercial 3

(C3). The applicant/property owner wishes to erect an additional building on the C3 zone, and the zone change will accommodate a buffer and some screening and storm water retention and storage. The applicant must go through the approval process of Planning and Zoning (PZC), IWW, and back to PZC for site plan approval.

The property owner wants to keep within the character of the existing uses of the property. The proposed building design would be within the existing C3 zone; parking would be in the existing C3 zone; and the zone change would provide enough space to accommodate the setback and screening from the residential neighborhood. This must all be encompassed within the same zone, and for storm water retention. The zone change request is only the buffer setback and incorporates screening for the residential neighborhood.

Mr. McCarthy stated he is in possession of a few letters written by some residents.

Mr. Voelker advised the Commission has these written comments, and Ms. Simone will read them into the record following the presentation and Commission statements/questions.

Chairman Kurtz stated the Commissioners will address the application first, and then he will open public participation.

Commissioner Questions/Comments

Mr. Natale noted the property in the back, 4.53 acres, and asked if the applicant is looking for a little sliver behind the building of .40 acres, and if there are future plans for the rear 4+acres.

The Commission was told by Mr. McCarthy there are no expansion plans for the rear property in the R80 zone. In the staff report, it states this area cannot be developed. The main reason is lack of street frontage; the only way to get frontage is going through a GC zone in Wolcott CT (commercial zone); this is not doable, and does not keep in character of the use of the property. The proposed building would be the extent of any development on the property.

Mr. Bowman asked if the applicant is willing to put the rest of the undevelopable property into a conservation easement.

According to Mr. McCarthy this has been discussed with the property owner, and would discuss this at site plan submission. There was discussion about possibly donating the property to the Town of Cheshire since the Town is a significant property abutter to the subject property. On the left side (standing in Meriden Road) is the Town's property, which ties into the 300 to 400 tract of land on the top of Southington Mountain.

On the map, Mr. Bowman said the frontage is 524 feet.

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Mr. McCarthy stated the property is not suitable for residential development.

Regarding the site, Mr. Linder said the area to be rezoned would be untouched, and there would be no cutting down trees or development of any part of this area.

There is a portion requiring some clearing and Mr. McCarthy said it would be for underground storm water storage. For the construction of the building and parking area there would be no trees on the existing residential zone to be touched. The set up has enough room for the building in the C3 zone and enough parking in the C3 zone. If approval is granted, there would be cutting across the existing zone line only for the buffer and necessary screening to alleviate issues and concerns of neighbors, and decisions for underground water and leach ate for storm water runoff.

Stating the reason for his question, Mr. Linder said a resident on Charter Oak Drive, which is behind the property and abuts the area, has concerns about the developed property would infringe upon the residential area. Now, it sounds like there will be no infringement on residential portions.

Mr. McCarthy said that he believes, by default, if the applicant goes through the entire process to fruition, the residents will experience a better privacy situation than they current have.

For the current building, Mr.Brucato asked if it is being replaced or if it is an addition.

Mr. McCarthy said it is an addition to the complex.

On the map Mr. Todisco noted a triangular area with diagonal lines and asked if this is the area for the zone change. His understanding is there will not be construction in this area, except for clearing for drainage or future screening.

Stating that is correct, Mr. McCarthy said there will be no building in the lined zone and no parking. There will be screening to alleviate some of the resident's concerns... 10 to 15 feet high Arbor Vitas, or fence...or something like that. The current building footprint and parking footprint will not enter the area asking to be rezoned.

Citing the map and portions of lot 23 which borders the R80 properties, Mr. Todisco questioned this area not being developed. He noted this area abuts R80 parcels.

Lot #23 is an untouched area, and Mr. McCarthy said it will not be cleared or have construction on it. This area does about R80 parcels.

Mr. Strollo asked about lot 33 already dealing with a C3 zone because it borders on the other border line...and believes this area will not affect the proposal. On lot #34 the distance between the line is 500 feet on one side and 300 feet on the other before it hits the subject property. Mr. Strollo cited the applicant's willingness to do something

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for a permanent buffer which will alleviate problems with neighbors, and he sees no problems with what is proposed here. He said neighbors think the zone change is all the way to their back property line...and this is the problem.

This is understood and Mr. McCarthy has read the letters from neighbors on their issues, and they can be alleviated with the zoning application. Lot #33 also deals with a C3 commercial...used car lot on the front of their property...out towards Meriden Road.

The applicant picked this configuration of a zone change because they came up to the C3 zone line for buffering. Mr. McCarthy said not much is needed where it comes to a point, starting at bottom of the triangle, and is spread out further because the intention is for storm water runoff storage behind the existing building. This is how the configuration was decided, wanting to take the minimum needed, and the property owner is willing to do necessary screening (foliage, plants etc.) and make residents happy.

Mr. McCarthy stated the importance of noting that the closest structure to the property line, anywhere, is well over 200 feet away from a densely wooded area. He pointed out that some of the letters received in opposition are from two (2) property abutters; a third one is over two (2) properties away and involved in the notification because of the 500 foot diameter, which splits their property. The fourth letter is three (3) properties away; their structure is over 600 feet from the property line at the closest point; a little sliver of their property, about 50 to 100 SF, falls within the 500 foot diameter for notification purposes. Mr. McCarthy said there will be minimal to no impact, and the plans will increase the privacy of the residents.

According to Mr. Stollo, the neighbors are seeing Wolcott, and this is out of Cheshire's control. Wolcott has lots of lighting on the road and residents get this lighting coming up, and the applicant's little bit of woods helps keep the lights from coming all the way onto their property. The area residents are already dealing with RT 322 with all the business lights.

This is part of it, and Mr. McCarthy said on the subject property there are no lights shining back towards the woods. With the location of the additional building it would block out a big section of Meriden Road lights from the two closest residents.

Mr. Bowman noted that part of lot #33 is in a C3 zone.

That is correct, and Mr. McCarthy said there is a 50 foot secondary access for the interior lot with two 50 foot accesses...one from Charter Oak and one from Meriden Road. This is a legal access for their property.

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Mr. Dawson stated the PZC should only be concerned with issues related to Cheshire zoning...with the property owner doing what needs to be done to address residential concerns.

Ms. Simone read letters from the public into the record from Nancy Brecher, Jeff and Mary Lee Novia, Lisa Murray and Mike House. The letters are included in the file of the application.

The Commission was informed by Mr. McCarthy that this is a Cheshire issue, and the applicant will address the cited concerns...and wants to be a good neighbor. Addressing concerns will be part of the Site Plan, not the zone change.

Following reading of the public comments, Mr. McCarthy said he believes residents sending 2 of the 4 letters have confusion with the PZC agenda of this meeting. They think the two (2) agenda items pertain to the same parcel, and he asked for clarification on this issue.

For the record, Mr. McCarthy has been on this project for 1 ½ years, and there has been no discussion about any alcohol related business going into these premises. The owner has fairly specific uses, none of which are alcohol, restaurant or brewing business related. One (1) letter from a resident speaks of the entire property up for a zone change, when it is only .40 acres of the total 4+ acres...it is a sliver of land for the zone change for a buffer. R80 zone has no potential for development. One (1) resident mentioned a commercial building...and the entire complex has been services by RWA since 2000.

Mr. McCarthy stated first things have to be done first because of possible stops along the way, and nothing further can be done. The approvals for separate hookups for the new building...both sewer and water...were required through City of Waterbury Sewer Dept. and commissions, WPC, DEEP, RWA. The entire property Cheshire/Wolcott drainage is all set towards Meriden Road for the last 20+ years. The property next door (next to lot #33) has sewer and city water...so the resident's referral about wells is zero impact from the subject property. There is no draw off the aquifer or ground water; there is no storm water running into wetlands; and there is no impact on sewer or septic systems.

It was stated by Mr. McCarthy that what is being proposed will be pleasing to residents, providing more privacy, quite enjoyment, than they currently have. At the site plan submission the concerns of residents will be raised and addressed.

Ms. Simone read an e mail comment from Mary House into the record regarding lights on the two story building shining into her house.

Chairman Kurtz asked for the Zoning Enforcement Officer to check into this concern...insure full cut off lighting etc.

Mr. Bowman said this is Cheshire, and the lighting may not have been regulated when the building was originally built.

Mr. McCarthy will take this up with the property owner, and it can be addressed.

The Commission was told by Mr. Voelker that this property is not in an aquifer protection area.

Stating he is in favor of the application, Mr. Bowman said it would be based on the land owner giving the extra land to the Town of Cheshire or putting it into a conservation easement so abutting neighbors never have to worry about future expansion.

Mr. McCarthy will review this with the property owner and advise Mr. Voelker. This conservation easement or donation to the Town would be done at site plan approval time.

Mr. Bowman said no...he wants to see this now...he would not vote in favor if it were done during site plan approval.

Mr. McCarthy reiterated the applicant is intent on being a good neighbor.

Chairman Kurtz clarified that application #2 is to add brewing manufacturing for a proposed use in the regulations; application #1 is a zone change application for 2005 Meriden Road. One has nothing to do with the other.

Mr. McCarthy expressed appreciation to the Commission, and wished everyone good health during this time.

Chairman Kurtz continued the public hearing to May 27, 2020.

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| 2. <u>Zone Text change Petition</u>
<u>Counterweight Brewing Company LLC</u>
To add new paragraph 58(a) to Section 30,
Schedule A, Permitted Uses
(a) Breweries, wineries, distilleries and other
Alcoholic manufacturing facilities as licensed by
The State of Connecticut | PH 5/11/20
MAD 7/15/20 |
|---|-----------------------------------|

Attorney Anthony Fazzone, One Towne Center, Cheshire CT represented the applicant.

Town Planner Voelker read comments into the record from the following:
Regional Water Authority dated 3/24/20; South Central Regional COG dated 4/15/20;
Capital Region COG dated 4/8/20; Naugatuck Valley COG dated 3/13/20.

Ms. Simone read letters from Scott DeMeo and Jamie Ferguson into the record.

Attorney Fazzone stated the application before the Commission is to allow breweries and accessory uses. The staff report is very thorough and cites allowing breweries, presently considered manufacturing. With the proposed regulation it would specifically identify other factors or accessories to breweries in the I-1 zone. Much is based on the experiences of the applicants and looking at facilities throughout the State with successful experiences. In addition to the brewing and distilling, the proposed application would allow tasting rooms, food service both restaurant style and food trucks, entertainment and events held on the properties. As with other properties in the I-1 zone it would be special permit, and in other zones it would be a site plan application.

The breweries would not be required to meet the 2,000 foot restaurant separation in the I-2 and I-1 zones and all the Industrial zones. In the letter from Ms. Ferguson there was reference to several articles and studies done that show the impact to the small to middle sized communities. The brewery acts as a stimulant to the community for social engagement, have positive fiscal impacts on the community, create jobs, etc.

Mr. Fazzone read an excerpt from the Ferguson letter into the record.

The RWA comments about the aquifer and trucks were noted by Mr. Fazzone who said it would have to be a major brewery to service its own trucks. Servicing is not allowed in the aquifer. Regarding the reference to Whole Foods and Air Gas...these companies have outside companies to wash/service trucks and vehicles, and all the water is collected and infiltrated into the aquifer.

Mr. Brucato asked about waste water...is it sewer/septic or hauling out, and parking regulations.

Mr. Fazzone said there are sanitary sewers on the site.

This is a text amendment, not a site plan, and Mr. Voelker said these issues will be discussed during the site plan application. For the subject application there cannot be comments about specific locations or anyone served by this application.

For the 2000 foot rule, Mr. Brucato asked if this applies to restaurants not being built in the same area as the brewery.

Mr. Fazzone explained that a brewery application does not have to adhere to the 2,000 feet, but this does not change what a restaurant would be obligated to follow. He does not believe a restaurant would be prohibited from being located within 2,000 feet of a brewery.

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Stating this amendment is for more than a brewery, Mr. Todisco asked about having a full service restaurant, food trucks, delivery service, retail service and providing entertainment. This is more than manufacturing beer and wine.

That is correct, and Mr. Fazzone said all these things would be allowed, most of which are common to the industry grown up around breweries, and wineries in Connecticut. They have restaurants, entertainment, events with food trucks.

Mr. Todisco believes a brewery would be good for the Town. If a brewery can be built based on a site plan, the Commission has no control over the effect on neighbors in the commercial area or residential zones. Mr. Todisco said that for something this substantial it should be a special permit outside the industrial zone.

The Commission was informed by Mr. Voelker that in a commercial zone there can be a restaurant with banquet facilities, as a right, serving alcoholic beverages, and there is not a big difference. Breweries are manufacturing facilities, and are not allowed in the commercial zones....this is why it is introduced in the I-1 zone. For a restaurant with many uses there is no site plan review. A brewery (i.e. Budweiser) could be set up in the industrial zone and set up a facility, and a taste room would be a normal accessory. The subject application tries to enable a brewery choosing to locate in Cheshire to do everything their competitors do in other locations. If PZC makes this a special permit and making a distinction between what a brewery does and what a restaurant does...there is none. A restaurant can do everything as a right in the commercial district.

Regarding the distance restriction of 2,000 feet, Mr. Voelker said a brewery does not affect a restaurant, and does not extend beyond this. The applicant wants to establish a manufacturing facility, a brewery, with other uses of food service. A restaurant within 2,000 feet is only applicable in the industrial zone, has nothing to do with the commercial zone, and restaurants, by themselves, are still limited by the 2,000 foot restriction. What is being allowed in this application is a manufacturing facility, called a brewery.

Attorney Fazzone read an excerpt from Section 40A into the record.

Mr. Voelker stated a restaurant is an extended use of a brewery.

There was a brief discussion on farm breweries, which are mostly restaurants, with products grown on the farm.

Ms. Simone read the letter from Jamie Ferguson with the links to the website for breweries into the record.

It was stated by Mr. Fazzone that one of the links refers to a study done by a college in South Dakota, which supports everything stated in the Ferguson letter.

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A question was raised by Mr. Todisco regarding the brewery only serving what is made at the brewery, if there is a full bar license for the restaurant and retail.

Mr. Fazzino said he did not know the specific answers to those questions. He did advise there are certain licenses in Connecticut to deal with breweries, and there is control over what can be served, i.e. gallonage. He believes they would still have to get a full and different liquor license, as a beer brewing license would not allow for sale of a complete array of liquors.

Mr. Strollo asked about a distillery being the same thing as a brewery.

According to Mr. Voelker the request is broad. People have asked about making hard liquor (i.e. pumpkin cider); most want to make beer; and everything is subject to State regulations and licenses; and to get a State license there must be PZC approval.

The concept about growing a certain amount applied to the farm breweries, and Mr. Fazzino explained that they have to use contents of a manufactured beer grown in the State of Connecticut. Ultimately, with a farm brewery, they must get to a certain percentage of the products grown on the farm. Mr. Fazzino noted there are numerous liquor/brewery State licenses not related to farm breweries.

Chairman Kurtz closed the public hearing.

VI. ADJOURNMENT

MOTION by Mr. Natale; seconded by Mr. Brucato

MOVED to adjourn the public hearing at 8:50 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk