

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON WEDNESDAY, MAY 27, 2020 AT 7:30 P.M. VIA VIDEO TELECONFERENCE (PER EXECUTIVE ORDER OF THE GOVERNOR OF CONNECTICUT)

*Public access made available through live streaming on YouTube at https://www.youtube.com/channel/UC4_xey3QjJmwe57R_6K94Dw
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, S. Woody Dawson, John Kardaras, Louis Todisco. Absent: Gil Linder and Tom Selmont.
Alternates: Robert Anderson, Casey Downes
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.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

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

V. BUSINESS

- | | |
|---|--------------------|
| 1. Zone Map change Petition | PH 5/11/20 |
| <u>Bartlett Headquarters LLC</u> | PH 5/27/20 |
| 2055 Meriden Road | MAD 7/31/20 |
| R-80 to C-3 | |

Alternate Commissioner Anderson was seated for application #1.

Ms. Simone read comments and e-mails into the record for the Bartlett Headquarters LLC application from the following people: Mary House, Tim Bernhardt, Lisa Murray Nancy Shuster and Teresa . They are part of the record and file.

John McCarthy, 40 Maple Avenue, Wolcott CT, represented the applicant, Bartlett Headquarters, LLC. Mr. McCarthy informed the Commission that the situation with the lights from the new building addition (2nd floor) is being solved. He has spoken with the property owner and has personally inspected the property, the lights on the top of the building and Charter Oak Drive. It was pointed out by Mr. McCarthy that the Cheshire regulations required the lighting for the business to be located at its current site, and specs for the lights were set by the Town of Cheshire regulations. The property owner can accomplish what the town requires for lighting and aim the lights differently...a little lower...changed sufficiently so there is no long a neighbor issue. In the proposal for the new building there will be sufficient screening, approved by the Commission, to make sure this does not happen again.

At the request of neighbors, Mr. McCarthy reported that a Cheshire zoning staff member came to the property, inspected the lights, and stated there were no issues...and informed the neighbors. The Commission and neighbors were assured by Mr. McCarthy that the lighting situation will be rectified...the property owner has no problem with re-aiming the lights down to the edge of the parking area, and wants to be a good neighbor.

Chairman Kurtz questioned whether the property owner followed Cheshire guidelines with the current lights and will do so with the new lights...i.e. full cutoff lights in compliance with the regulations.

The Commission was assured by Mr. McCarthy that all lighting is full cutoff in compliance with the regulations. These lights will be re-aimed downward, which will help with the neighbor's issues...and eliminate the issues. The original building lights are not bright enough to get to the woods; the lighting is on the 2nd floor; and he was not involved in the prior project.

With regard to light posts and eliminating the lighting problems, Mr. McCarthy stated that what is there is what the Town required at the time. The parking lot is paved...and to get in light posts would require cutting open the entire parking lot.

Town Planner Voelker explained the Town inspection would have approved the full cutoff lights; sometimes these lights have to be redirected; and the Commission cannot discuss site plan issues at this public hearing.

Mr. McCarthy stated the following for the record:

- Lights will be aimed lower to the ground
- Distance will be cut off at the back of the parking lot
- Property owner is conscious of the neighbor's concerns and will take steps to alleviate the problem within a matter of days
- There will be follow-up and Mr. McCarthy will advise the Planning Department

- The lights will be redirected; this will not impact what is needed to be accomplished with the lights.

In response to a question about the lighting regulations, Mr. Voelker said these regulations are about 15+ years old.

The Commissioners discussed the lighting situation, neighbors' concerns, the installation of cutoff lighting which was incorrectly aimed, ZEO inspection of the lighting at the site (not a night time inspection), possible zoning violation, PZC inspection of the lights, and continuation of the public hearing pending determination of a zoning violation by the applicant.

Mr. Voelker advised the Commission has 65 days until closure of the public hearing, so the public hearing could be left open.

At the time the building was opened and given a Certificate of Occupancy (C/O), Mr. McCarthy said the lights were inspected and approved by the Town of Cheshire inspection staff. These lights are 20 feet high; they are on the 2nd floor; he does not believe there is a zoning violation; these lights were determined to be to within code and in compliance with the regulations by Town staff. No violation exists but the property owner will change the direction of the lights, and re-aim them so there is no ambient lighting coming through the woods and impacting neighbors.

With regard to the ZEO signing off on the cutoff lighting and lights meeting code, Mr. Voelker said he would investigate this and inform the Commission.

The issue of the back area of the property with an easement to the Town or donation to the Town was raised by Mr. Brucato.

Mr. McCarthy stated there is conversation pertaining to the back land area, easement or donation to the Town, which is the plan of the property owner. This land cannot be developed.

Mr. McCarthy noted the purpose of the zone change was to put up a buffer, achieve underground water storage, and provide more screening for the neighbors. The plan is for high screening of the property. There is no particular instance in which the property owner was a bad neighbor, and Mr. McCarthy has been working with the owner on other properties. The owner takes pride in what he does, his work is impeccable, he relates to the neighbors, and the area to be impacted with the subject application is very small with nothing going on except what will be under ground.

In response to a statement from Mr. Todisco about the lighting no longer impacting the neighbors, screening the building, and enforcement of the lighting on the property...Mr. McCarthy said the Commission has his word that the situation will be solved. The

property owner has no issue with re-aiming the lights...and if necessary, Mr. McCarthy said he would do the work himself, and inform the Town and Commission it is done.

Mr. McCarthy will coordinate and cooperate with Town Planner Voelker and his staff to insure compliance with the rules and regulations for lighting...and rectification of the issues before the next meeting with the Commission.

Mr. Bowman stated these issues should not be on the back of the ZEO. There can be a simple certification by a lighting engineer that the lighting is correctly installed, does not leave the property, and this should close the matter.

Mr. Dawson concurred with the recommendation of Mr. Bowman.

Mr. McCarthy said he is giving his word to the Commission and neighbors that the situation will be taken care of by the property owner.

Commissioners can individually visit the area and drive through Charter Oak before the next meeting. Mr. Todisco stated he did visit the area but not the property of neighbors.

Chairman Kurtz continued the public hearing to June 8, 2020.

2. Special Permit Application
Gina Vice-Hlavacek
8 East Ridge Court
In-Home business
Sec. 30, Sch. A. Para 18B

PH 5/27/20
MAD 7/31/20

Commissioner Kurtz recused himself from application #2.

Alternate Commissioners Anderson and Downes were seated for application #2.

Vice-Chairman Strollo chaired this application.

Ms. Simone read public comments and e mails on the Gina Vice-Hlavacek application from the following people; some came in earlier in the day and throughout the public hearing; and they are part of the record and application file.

Charles and Marge Ragozzino, Dr. Joseph and Carmelina Picone, Kathleen Acampora, Tom and Diane Scannell, Natalina Battick, Teresa Goncalves, Paris Godbout, Matt Godbout, Bill and Charlotte Blair, Brian and Gena Borgman, Guy and Alice Darter, Mr. Krause, Jeff and Nancy Shuster, Adam and Samantha Rosenberg, Ralph Mesite, Dennis and Pamela Mathis, Geralyn Rock, Dr. M. Vindi.

Mr. Strollo noted there are 18 houses in the cul de sac, and asked how many houses are in opposition to the application.

With a special permit, Mr. Brucato said the Commission can limit the number of days and number of clients to 8 East Ridge Court. He commented on the possibility that the applicant does business in another town and these clients could come to the home business.

The Commission was advised by Mr. Voelker that Commissioner E.J. Kurtz has disqualified himself from the subject application. However, the Town Attorney has advised that Mr. Kurtz can ask a question through Town staff.

Town Planner Voelker read a written question from Mr. Kurtz (received at 5:41 p.m. on 5/27/20) regarding the applicant's narrative dated March 17, 2020; her use of the word "expected" a few times; and leaving him suspicious of the applicant's intentions.

Mr. Voelker stated the PZC decision is based on what the applicant is asking for. The Commission should not suggest what is best for her...the number of days and hours for the practice and number of clients. The Commission's decision should be based on what is in front of them, with confidence that everything conforms to the regulations. Or, if they don't...that is another thing...but the idea the Commission can change the hours and what is in the application...the decision must be based on the testimony of the applicant which includes the narrative submitted with the application.

With other special permit applications for in-home businesses, Mr. Brucato said the Commission has asked about traffic, number of cars in the driveway, etc. He questions why this cannot be asked of this applicant for the Commission to base its decision.

The information on the number of houses on East Ridge Court that are in favor and opposed to the subject application will be calculated and stated later in the public hearing.

Mr. Todisco read an excerpt from the Special Permit Regulations, Section 40.5 into the record. Mr. Todisco stated that there is room therein, based on evidence, the applicant says eight (8) people a day, three (3) days a week, and this condition could be attached to the permit. This is authorized by the regulations.

Gina Vice-Hlavacek read a prepared statement into the record in support of her application for an in-home business at 8 East Ridge Court, Cheshire CT. Highlights of the statement are cited below, and the full statement is part of the application file.

In 2008, Ms. Vice-Hlavacek received approval for a home office at 324 Greenbriar Drive, Cheshire CT. She has run this business for 12 years in a small neighborhood of 15 homes with 13 children ages 0-16 and family grandchildren; the neighborhood is located behind Highland School with heavy foot traffic. Neighbors have had no issues with her

office; this speaks to safety, traffic, her clientele, security, no neighbor complaints or emergency calls or personnel to her home for clients.

The business at 8 East Ridge Court will have no structural changes to the home; the house is 2 in from the main street; there will be one car in the driveway at one time; the practice is part-time, 2 or 3 days a week; there are no employees; no increase in case load is planned; there will be an increase of 8 cars a day on the street, but no increase in traffic for homes further down the cul de sac; neighbors will not have a negative impact from the in-home business.

Before Ms. Vice-Hlavacek sees a client they receive a letter stating the practice policies and requirements; there is no out-patient clinic to be established with the practice in a residential area; she does not treat severe psychologically disturbed individuals; clients with more serious indicators are not appropriate for home office therapy. The practice treats high functioning individuals from the Cheshire community and professionals in various types of work, people with anxiety, depression, first responders, teachers, lawyers and state officials, victims of local tragedies, trauma or trauma related disorders. There is no provision of treatment to offenders of any type, and they would not be appropriate for an out-patient private practice level care. Her clients prefer blending in with the surroundings rather than be seen walking into an office with a recognizable name on the outside of the building. The Middletown CT practice/office will remain open because it offers different therapy to clientele not seen in Cheshire.

Ms. Vice-Hlavacek commented on the higher property value of the 324 Greenbriar Drive home at this time, and the 8 East Ridge Court home price now being lower than it was in 2017.

Regarding setting a precedent for home office employment, Ms. Vice-Hlavacek is not aware of establishment of other home offices in the Greenbriar Drive area. She cited her situation as unique with provision of evidence and validity of the safety and impact of her practice on the community. Current neighbors have stated her practice is invisible to them; it has not created any disruption, traffic or safety issues; and her 12 years of practice should be taken into consideration.

Regarding the new home at 8 East Ridge Court, Ms. Vice-Hlavacek said no changes are proposed to the house.

A question was asked by the Commissioners on the number of in-home businesses in Cheshire.

Mr. Voelker does not have the number, but has not dealt with many during his time in Cheshire. The nature of in-home business has changed, and Mr. Voelker said not many medical professionals practice out of their house, for many reasons, i.e. insurance. They are encouraged to affiliate with hospitals, and there are probably other professionals practicing at home which are unknown to the town.

Mr. Brucato asked if the applicant is willing to limit the number of clients and this being written into the approval.

This has already been stated, and Ms. Vice-Hlavacek said she will keep what is already stated...up to 8 clients a day, 3 days a week, 8 a.m. to 6:30 p.m. Clients are seen later in the day in the Middletown office. The in-law apartment over the garage will be used for the business.

The Commission was told by Mr. Voelker that the in-home business must be conducted in the applicant's home. The subject house has a garage attached to the main house and is part of the home...there cannot be an attached structure.

Mr. Bowman asked about a stipulation of no employees and handicapped access, and no high risk patients being seen in the home office.

Ms. Vice-Hlavacek stated there will be no high risk clients; there are no employees, and a chair lift will be installed for handicapped access for easier mobility for some clients.

With regard to public safety, Mr. Strollo asked about police, fire, ambulance services called to the home for a client of the practice.

In reply, Ms. Vice-Hlavacek stated there has never been a public safety call to her home.

Mr. Strollo cited his concern about the remoteness of the proposed location, as the current location is in the center of town behind the police department. If there is a problem at the new location the public safety response time will be longer. He has a hard time with the safety aspects of the home office request...it is 4+ miles from the ambulance service.

The new location is close to Cheshire Street and East Johnson Avenue, and Ms. Vice-Hlavacek noted these are two major roads in town for quick access.

East Ridge Court – Ms. Simone cited the information on the neighborhood comments (from the residents) received by the Commission. There are 18 homes; 13 letters were received with 9 in opposition and 4 in support of the subject application; these numbers can and will change as more information is received.

Mr. Todisco stated the letter from the realtor who lives on East Ridge Court and the seller of 8 East Ridge Court should be taken out of consideration...and it is concerning to him to receive this many comments.

Back in 2008, Mr. Anderson said the PZC approved the same application for Greenbriar Court.

For the public notification, Ms. Vice-Hlavacek said it was sent to four (4) abutting neighbors. She requested other neighbors contact her about the application but no one has called or contacted her. Regarding enforcement of the regulations, she said to look at her past 12 years of an in-home business as a pattern.

In light of the necessity of virtual Commission meetings, Mr. Strollo wants neighbors to have the opportunity to get everything out that they want and state their concerns. Right now, there are 18 houses and 10 people do not want the in-home business. He wants to continue the public hearing to June 8th. In the interim, Ms. Vice-Hlavacek can get back to neighbors on their concerns, calm them down, and possibly resolve things.

Mr. Natale clarified that the public hearing would be held open to June 8th; it will be a Zoom meeting; and all comments and communication must be submitted to the Planning Department.

Mr. Hlavacek stated they are under contract for 8 East Ridge Court.

Stating this is not a concern of the Commission, Mr. Voelker said it is the applicant's responsibility to resolve. As far as notification is concerned, Mr. Voelker said the applicant's notification is governed by Section 26 of the Zoning Regulations. This section requires notification to the abutters...there is no requirement to contact everyone on the street. The enhanced notice provision is required for non-residential use proposal in a residential district...and the applicant satisfied the requirements set forth in the regulations.

Mr. Natale and Mr. Kardaras agreed there is sufficient notification and information on the application.

Mr. Strollo said he is continuing the public hearing due to so much opposition, and to give everyone involved enough time on the issues and concerns.

Ms. Downes requested the number for the actual number of houses that have communicated on the application...and find out exactly how many oppose or support.

With this much controversy, Mr. Todisco reiterated the fact that communication must come into the Planning Department, and there should be no contact with individual Commissioners.

It was noted by Mr. Bowman that if this was a regular in person public hearing of the Commission the same comments etc. would not be heard time and time again from members of the public. This same format should be followed for the virtual meetings.

Mr. Strollo clarified that out of the 18 houses on East Ridge Court, 10 of them are opposed to the in-home business. Therefore, everything should be looked into a little more.

THE PUBLIC HEARING WAS CONTINUED TO JUNE 8, 2020

Chairman Kurtz returned to the public hearing and chaired the remainder of the hearing.

3. Subdivision Application
Carol Caley, LLC
South Meriden Road, Colton Lane
11 lots

PH 5/27/20
MAD 7/31/20

Ryan McEvoy, P.E. Milone & MacBroom, Cheshire CT, represented the applicant.

This is an application for an 11-lot residential subdivision on a parcel that is Part B of the Bishop Caley Subdivision from 2018. The site is 17.7 acres; primarily in an R-40 zone, with a small portion of the far eastern corner of the lot that is R-80 zone (bordering the Broad Brook Reservoir); it has frontage on South Meriden Road, and a temporary cul de sac at Colton Lane. To the north are lots which are part of the Sunrise Farm Subdivision approved in 2011. Colton Lane was constructed as part of that subdivision. The parcel is overgrown old fields; is sloping in nature where the development is proposed; the area near the reservoir has steeper grades and the subdivision will not be developed there. Elevation in the southwest corner is high at 266 feet; lower elevation near Colton Lane at 224 feet; and then it slopes to 158 feet. There are two small narrow wetland areas which will be avoided. IWW determined a permit is not needed.

11 Lot Subdivision – located in the R-40 portion of the parcel; access to the lots will be through an extension of the temporary cul de sac to Colton Lane to South Meriden Road; 900 foot extension; the road will intersect with South Meriden Road directly opposite Harvest Court. This is different from what was envisioned. As part of the original Bishop Caley subdivision it was contemplated to have Colton Lane into another temporary cul de sac.

The road south is in conformance with town regulations; there will be sidewalks on both sides; road width will be 30 feet; lots to be served will be 40,000 to 50,000 S.F.; lots 8 and 9 (south east corner) will be served by one driveway; they are not rear lots; each lot has 50 feet frontage; driveways are combined to limit impervious surfaces; all lots will be served by onsite septic systems and wells; and Chesprocott Health District has approved the feasibility.

Drainage – collecting and conveying drainage along the roadway with a conventional catch basin system; it will discharge to a new storm water basin located in the low area of the property near Colton Lane; this basin is sized to detain and decrease runoff to a 100 year storm. The system is designed in accordance with the 2004 DEEP Storm Water Quality Manual.

Standard Sediment Control Plan – directing runoff from the roadway construction silt to designs in accordance with the DEEP guidelines. Each lot will have sediment fencing as appropriate.

Fire/Emergency Services – are being accommodated by construction of a 30,000 gallon Cistern in accordance with CFD requirements.

Mr. McEvoy stated this is a conservative subdivision, all in accordance with town road standards for an R-40 district.

Engineering Department Comments were received and there will be response to them. The public hearing will remain open, and there will be further discussion on the comments.

Police Department Comments were received. CPD is pleased with the roadway alignment. The applicant must go to the DOT for the curb cut and new roadway on South Meriden Road. Sight lines from the proposed intersection are in excess of DOT requirements...in excess of 500 feet without obstructions. Some limited clearance from the roadway is needed and this must be approved by DOT.

Town Planner Voelker read comments from the Cheshire Police Department dated 5/21/20 and Cheshire Fire Department dated 5/21/20 into the record.

Mr. McEvoy stated he is working on the Engineering comments. A revised plan will be submitted for the next public hearing, and the applicant will be in a position to address concerns.

Ms. Simone read comments into the record from the Oregon Road Group.

This property is not in the aquifer zone, and Mr. Voelker said there were no comments from the City of Meriden following notification to the city. He will submit the photographs and any comments to the Commission for the next meeting.

On the Engineering Department comments, Mr. Natale asked about #14.

Mr. McEvoy said the property at Sunrise Farms was originally a simple subdivision cut from the Bishop Caley trust, and constructed by a separate entity. The entire property was once part of Bishop Farms. Regarding things to be fixed for the Sunrise subdivision, Mr. McEvoy said it was approved in 2018, about 40 acres of land, into the subject property and 21+ acres retained by the Bishop Family. As part of that subdivision to create one new lot (out of the 40 acres) it had to be demonstrated how the property would be developed; one (1) house on the northwest corner of the lot with the ability to attenuating peak runoff through some small rain gardens. He explained the handling of runoff by reducing the amount of runoff getting to South Meriden lots.

Mr. McEvoy referred to the drainage report Analysis Point A, which demonstrates the decrease in runoff.

According to Mr. McEvoy there will be further review of the Analysis with the Town Engineer.

Homeowner's Association (HOA) – the association will be formed to provide maintenance on the storm water basins and cistern. This is reviewed with staff if the application is approved.

THE PUBLIC HEARING WAS CONTINUED TO JUNE 8, 2020

VI. ADJOURNMENT

MOTION by Mr. Natale; seconded by Mr. Brucato

MOVED to adjourn the meeting at 9:55 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk