

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, JUNE 8, 2020 AT 7:30 P.M. VIA VIDEO TELECONFERENCE (PER EXECUTIVE ORDER OF THE GOVERNOR OF CONNECTICUT)

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Present

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

Ms. Downes was the Alternate Commissioner for Application #1.

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

PH 5/11/20
PH 5/27/20
PH 6/8/20
MAD 8/12/20

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

Town Planner Voelker reported two (2) comments were received which are similar to those received at the last meeting related to preservation, protection of the neighborhood, trees and putting up a fence.

Chairman Kurtz stated the public can submit new comments on matters related to the application. He noted the Commission has already heard and received public comments on the lighting etc.

The Commission was informed by Mr. Voelker that the photos were received. He visited the site today about 4:30 p.m. and verified the three (3) lights were changed out (on part of the building in Cheshire) and things are in good shape at this point. The Commission was also informed that a portion of the subject property is in the Town of Wolcott CT; the lights were changed on the property which is under Cheshire CT regulations.

This is computer simulated software that was submitted and Mr. Brucato said this is not going out to the site with a meter and reading scatter or reflection taking place.

Mr. McCarthy said that is correct; it is computer generated based on the make and model of the lighting, location and other relevant factors.

Mr. McCarthy reviewed the changes to the lighting issues which have taken place since the last public hearing on the subject application. The property owner hired an electrical engineer who went to the property, looked at the lights, created an overlay map (sent to Planning Department) which showed where the potential lighting could go. Three (3) light fixtures were changed out to a more appropriate lighting scenario. The engineer included a narrative explaining the situation which was sent to the Planning office. Photographs of the lights changed out were also submitted.

After the last meeting, Mr. Bowman advised the Commission he visited the site after 10:30 p.m. to observe the lighting situation. It was not off the property; it was outside the C-3 area; lighting needed to be turned around; he spoke to the electrical inspector and was informed the cutoff lighting is only cut off from above, not cut off out...it is cut off from going straight up. Mr. Bowman saw that the lighting needed to be re-positioned and turned down so it is not leaving the commercial area, but still on the subject property. He drove through the subdivision and saw lights shining in neighbor's yards.

According to Mr. McCarthy the lights changed are pointing directly down, and only the lighting to the back of the parking area is a spill-over from the full cutoff lighting. The owner has offices on this property with occupancy sometimes to 9:00 p.m. and cannot take out the lighting and then create a safety issue. The engineers stated the lighting will not get through the woods and affect residents and their issues.

Stating he was more than satisfied with the explanation, Mr. Bowman asked if the engineer is willing to certify the lighting changes. If there are future complaints it will be

the responsibility of the property owner to make adjustments and insure lighting is within the guidelines of the regulations.

Regarding the certification of an electrical engineer that lights are properly installed, Mr. Todisco asked if the Commission has this certification. If so, that would be sufficient for the Commission.

The Commission was told by Mr. McCarthy that this would be the kaleidoscope map and engineer's narrative. The lights come on and are properly installed, and fixtures were changed.

Chairman Kurtz pointed out that Mr. Bowman did not see the new lights; Mr. Voelker visited the property at 4:30 p.m. in the afternoon; and the applicant's statement says the lights are installed properly.

The software simulation shows the lights put in at a particular angle, and Mr. Brucato is okay with this simulation. He asked about these lights being adjusted on angle...if so do they match with the simulation...or go in flat and angle as shown in the simulation.

These lights go in one way and Mr. McCarthy said they are not adjustable. They point straight down, vertically, along the building.

Mr. Voelker said the lights are not going anywhere; they are down; there is a shield on them; and the only lights under control of the Commission are those located in Cheshire. The Commission cannot get into the portion of the building located in the Town of Wolcott.

There were no new comments received from the public, and Mr. Voelker said the few comments received earlier were similar to testimony about preservation, protection of the neighborhood, etc.. One question was received about an update on the donation of the rear property to the Town of Cheshire. Mr. Voelker explained there is no update at this time; this matter must come to the Town Manager's office, with review and approval of the Town Council, and requires an 8-24 review.

Chairman Kurtz closed the public hearing.

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

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

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

PH 5/27/20
PH 6/8/20
MAD 8/12/20

Commissioner Bowman was recused from Application #3; Alternate Commissioners Anderson and Selmont were seated for this application.

Ryan McEvoy, P.E. Milone & MacBroom represented the applicant. Mr. McEvoy stated there have been revisions to the plans to accommodate the Town Engineer's comments. Modifications/changes were made to conversion of a single catch basin to a double basin, changes to pipe types, sizes, and depths of cover over the pipes. The latest revisions meet all the expectations of the Town Engineering Department.

Mr. Voelker stated the Planning Office has not yet received these revisions; there is still an engineering review required; the internal review continues due to issues regarding the subdivision; copies of a letter from the applicant were sent to the Commissioners. Comments from the Engineering Department do not cite problems with the subdivision in terms of design. A sign-off and report will be submitted to the Commissioners before the next regular meeting.

The Commission was told by Mr. McEvoy that he had discussions with Mr. Nolte last week, and confirmation that all comments have been addressed. This should be forthcoming to the Commission.

At the last meeting a concern was raised by an Oregon Road resident about the stockpile of materials present on the property near South Meriden Road. Mr. McEvoy had discussions with Mr. Voelker and Connecticut Yankee Construction.

Mr. McEvoy confirmed there is a larger stockpile along with smaller stockpiles on site and a backhoe, excavator, screener...placed at the construction entrance pad on South Meriden Road. The stockpiles are primarily top soil from other construction sites for work on this subdivision; the contractor understood he was able to bring in the materials and equipment, but this did not get clearing from the Planning Department. There is one pile of construction debris, broken concrete and some pavers on the side of the site.

According to Mr. McEvoy this situation has all been addressed in letter form from the site contractor, Connecticut Yankee Construction/Mr. Watts. This stockpile is not material harvested from the site; the material is primarily top soil and some pavers. There is little material or excavation that has occurred at the site; the contractor did not do clearing of vegetation of the site; some weeds were cleared; there has been no formal tree clearing or similar work; this is an open area of the property; and this is the status at this time.

Mr. McEvoy reiterated that this stockpile of material was done without consent of the Planning Department, with the understanding it could be done as a result of the previous subdivision work.

With regard to this situation, Chairman Kurtz asked about the work done, the stockpiles still on the site, estimated volume of the debris.

The piles remain there and Mr. McEvoy said the estimated volume is 800 cubic yards or less. The intent is to utilize this material as part of the subdivision construction.

On that point, Mr. Voelker asked if it is the applicant's intention not to have any material leave this site and sell it for any purpose.

That is not the applicant's intention, and Mr. McEvoy said no materials will leave the site for sale.

Mr. Bowman asked if the current situation at this site is in violation of the regulations.

The Commission was told by Mr. Voelker that this is a violation. After the last meeting the applicant, Mr. Watts, received a notice of violation for not following the regulations. It is a violation of the grading, filling, earth removal section of the regulations, and Mr. Watts was formally cited for this violation.

Mr. Voelker explained that top soil can be brought to sites with approved projects. The situation with this application is premature bringing of material to the site. He recalled there was a two (2) lot subdivision approved for large lots with no development scheme envisioned, and they were called for bringing in materials. The subject situation is a violation of the regulations; the ZEO sent a notice of violation since the last meeting.

The issue of the rubble and what it contains was cited by Mr. Bowman. In the photograph (right side) he pointed out this is not concrete or brick pavers. It is asphalt which contains oil residue; there are wells in this area (Oregon Road and Colton Court); this material is not top soil; it will be used to be buried and create additional fill. Mr. Bowman said this material should immediately be removed from the property; there is inherent risk because we do not know what is in the material with the applicant stating it is concrete and pavers. It is a certainty that tests have not been run on this material, and Mr. Bowman said it should be removed from the site before proceeding further with this application.

Mr. McEvoy said this is up to the Commission, and this stockpiling was not done with the blessing of the Planning Department. If the materials have to be removed from the site, he will have the contractor remove them. Mr. McEvoy confirmed there is a pile of construction rubble; it will not be used for construction; the top soil will be reused for the property...and the construction rubble is a minor component of the material at the site.

The recommendation of Town Planner Voelker was to remove the material with a report to the Commission before the next meeting.

With this as a potential contamination, Mr. Brucato asked about any contamination with the prior orchards...i.e. pesticides, and if proper testing was done or storage of pesticides on this property.

Mr. McEvoy is not aware of testing on the property and has no knowledge of testing of the site.

Since this was an orchard, Mr. Voelker said there is the potential for pesticides on this property.

The Commission was told by Mr. McEvoy that the health district approved the feasibility location of the septic systems, and will require additional testing of pesticides etc. A letter to this effect will be sent to the Commission. At the next meeting, Mr. McEvoy expects to have a positive letter from the Town Engineer and confirmation that the construction rubble will be removed in its entirety.

Mr. Bowman asked about DEEP being informed on what is taking place at this site.

There is concern about harvesting of soils from the property that could contain pesticides and Mr. Voelker said DEEP has been informed of what is going on at this site. It has been stated by Mr. McEvoy that there is no harvesting of soils on the site, and staff has no dispute with this statement. To date there has been no response from DEEP and it is possible they will not respond in a reasonable period of time. His concern is not so much with DEEP, but confirming there is no material off the site.

Mr. McEvoy stated there is no wide spread excavation planned on these properties because of the septic systems.

Regarding the last project, Mr. Bowman asked about hundreds of yards of materials removed...and he wants an answer about this.

Stating he did not work on the prior project, Mr. McEvoy said he will get an answer for Mr. Bowman.

There were no public comments. Chairman Kurtz closed the public hearing.

Commissioner Bowman was recused from Application #4.
Alternate Commissioners Anderson and Selmont were seated for this application.

4. Resubdivision Application
Miller Napolitano Wolff, LLC and
Tri-Star Development LLC
a) 1953 and 2037 Highland Avenue
b) 1-691 and Dickerman Road
8-lots – Stone Bridge Crossing

PH 6/8/20
MAD 8/12/20

Attorney Anthony Fazzone represented the applicant. Mr. Fazzone explained this was the subject of a resubdivision application approved in July 2019. The statutory requirement for filing of the subdivision map was extended several times for the 90-day requirement. The applicant has chosen not to file a subdivision map at this time or within the allotted time because of different interests in the property. When the applicant filed for re-approval there was a phasing proposal of the subdivision, and this has been withdrawn for divergence and uncertainty of the interest in various lots of the subdivision. The applicant went back to the WPCA and received feasibility approval which allows the subdivision to be sewerred through Dickerman Road which will significantly reduce the costs, while continuing to provide long term access to the sewer along Highland Avenue...if the town chooses to do this. Mr. Fazzone stated the large overall scale plan is no different with WPCA approval of the Dickerman Road route. There are eight (8) lots; this is done in conjunction with the special development plan in the I-C zone S.D.D. The applicant is back for re-approval of the subdivision. Some of the issues with respect to the COVID-19 have played into this, but it is really the long term aspects for why the applicant is back for re-approval.

Attorney Fazzone restated this is an eight (8) lot subdivision with a town road entering on Highland Avenue just north of I-691. It will loop around and come up on Highland Avenue at the end of the property further down the road. Off of that there is a cul de sac serving three (3)lots. It would be a town owned road, built to town specifications, within the Interchange Zone requirements.

Chairman Kurtz clarified that the only difference from a year ago is the sewer going down Dickerman Road...everything else remains the same.

Attorney Fazzone confirmed that was correct.

Regarding the waivers being requested, Mr. Voelker explained the acreage to be excavated is more than five (5) acres, and excavation is below and within 50 feet of the street line, and location of the fence to secure the area during excavation. These are not unusual waiver requests for projects of this scale. They were granted the last time and included in the testimony at this public hearing.

For the record, Attorney Fazzone said the zoning regulations say if you open, have more than five (5) acres for excavation, there must be Commission approval. This is a 5.1 acre site. Other items are long term. When the road is built there would be excavation right up to the edge to make the entrance. There are some places where

there is fill; it is all on site; there is nothing leaving or being brought on site; there is some significant material being moved around including straightening out an old earth removal operation. This area is being abused and damaged by dirt bikes and ATV riders. The applicant has made significant effort to keep them out, but people cut down trees to get into the site. There have been complaints from Rivercrest residents, and significant steps were taken by the applicant...with these residents saying things are now better.

The only thing that has expired is the subdivision approval, and Mr. Voelker stated the waivers were granted and remain in effect, without any changes to the waivers.

There were no comments. Chairman Kurtz closed the public hearing.

Commissioner Strollo was recused from Application #5; Alternate Commissioners Anderson and Downes were seated for this application.

5. Special Permit Modification
Hinman Partners LLC
90 Hinman Street
Modification to make 3rd floor usable

PH 6/8/20
MAD 8/12/20

Attorney Jay Hershman presented the application to the Commission. Mr. Hershman stated this is an application to modify a special permit approval of 1985 to allow the top floor of 90 Hinman Street to be eligible for a Certificate of Occupancy (C/O) rather than just for storage. The original C/O was for storage only. There is no change to the footprint of the building. Mr. Hershman has discussed parking with Mr. Voelker, and there is enough parking under the regulations.

There are thirty (30) parking spaces and Mr. Voelker said that is enough parking. CFD comments are all code related and not within the purview of the Commission. The applicant must get building permits and CFD review before a permit is granted.

Cheshire Fire Department Comments, 6/2/20 were read into the record by Mr. Voelker.

It was pointed out by Mr. Bowman that doing something with these older buildings requires a sprinkler system on the third floor.

Mr. Voelker reiterated the fact that this would be within the purview of the CFD and the Building Department.

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

Commissioners Bowman and Strollo were recused from Application #6; Alternate Commissioners Downes and Selmont were seated for this application.

- 6. Special Permit Application** **PH 6/8/20**
Michael P. Bowman and Katelyn A. Bowman **MAD 8/12/20**
125 Main Street
Conversion of Residential Dwelling to
Professional Offices

Mr. Voelker read CFD comments dated 4/28/20 into the record.

Attorney Joseph Bowman, 1551 Waterbury Road, Cheshire CT, represented the applicants. Attorney Bowman expressed appreciation for the CFD comments. The application is for conversion of a residential dwelling to professional offices. The plans by Milone & MacBroom show the exterior site, including parking per the regulations. Submittals for the interior rendering of the floor plan have been sent to the Planning Department. The plans show office space, conference rooms, staff space, kitchen, restrooms etc. The application is very clear. Mr. Bowman noted this building was originally approved many years ago for a home office.

For a home office, Mr. Voelker noted it is 25% maximum occupancy, and back in the 1980's the PZC did grant an in-home office use for 125 Main Street. The site plan has been revised to conform with Engineering Dept. concerns, and can be approved.

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

VI. ADJOURNMENT

MOTION by Mr. Natale; seconded by Mr. Brucato

MOVED to adjourn the public hearing at 8:27 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk