

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION SPECIAL MEETING HELD IMMEDIATELY FOLLOWING THE PUBLIC HEARING ON MONDAY, SEPTEMBER 14, 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
 . 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 Stollo, Vice Chairman; Jeff Natale, Secretary; Matthew Bowman, Robert Brucato, S. Woody Dawson, 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 special meeting to order at 7:55 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.

V. ACCEPTANCE OF MINUTES – Public Hearing 7/27/20 and Special Meeting 7/27/20.

MOTION by Mr. Natale; seconded by Mr. Brucato.

MOVED that the Planning and Zoning Commission approves and accepts the minutes of the Public Hearing of 7/27/20 and Special Meeting of 7/27/20 subject to corrections, additions, deletions.

Correction: Ms. Downes was present at the meetings.

VOTE The motion passed unanimously by those present.

Commissioner Bowman was recused from agenda item VI. Ms. Downes is the alternate for this agenda item.

VI. COMMUNICATIONS

1. **Letter from Anthony J. Fazzino Esq. dated 9/1/2020**
RE: Requesting an extension of the ninety (90) day period to file the Subdivision Map for the approved: "Resubdivision Map Subdivision Plan North End Parcel 1953 Highland Avenue, 2307 Highland Avenue And MBL: 3-51 Cheshire, Connecticut" Sheets 1 and 2 by Milone and MacBroom.

MOTION by Mr. Brucato; seconded by Mr. Dawson.

MOVED that the Planning and Zoning Commission hereby authorizes a 90-day he extension for the filing of the Subdivision Map for the approved: "Resubdivision Map Subdivision Plan North End Parcel 1953 Highland Avenue, 2307 Highland Avenue And MBL: 3-51 Cheshire, Connecticut" Sheets 1 and 2 by Milone and MacBroom as authorized under Section 8-25 of the Connecticut General Statutes.

Discussion

Mr. Voelker informed the Commissioners that this is one (1) of two (2) 90-day extensions authorized under CGS.

VOTE The motion passed unanimously by those present.

VIII. UNFINISHED BUSINESS

1. **Zone Map Change Petition** **PH 7/13/20**
Lamp Realty LLC **PH 7/27/20**
50 Hazel Drive **MAD 9/30/30**
From SARDD/R-80 to AHD (Affordable
Housing Development)
Section 44A

MOTION by Mr. Boman; seconded by Mr. Natale.

MOVED that the Planning and Zoning Commission approve the Zone Map Change Petition of Lamp Realty LLC to change the zone of 50 Hazel Drive (Assessor's Map 15/Lot 52) from SARDD/R-80 to Affordable Housing District (AHD) pursuant to Section 44A of the Cheshire Zoning Regulations.

In approving this petition, the Commission finds the following:

1. The property satisfies the qualifying standards of Section 44A.3.1 for zone change to Affordable Housing District (AHD) in that:

- It is located in the SARDD and R-80 zones.
 - It has more than 50 feet of frontage on a Town road (Hazel Drive) within
 - 500 feet of State Highway 70 between the Cheshire-Waterbury boundary
 - line and Wiese Road.
 - It is currently served by public water and public sanitary sewers.
 - And, at 22.2 acres in size it is not less than 5 acres nor more than 25 acres.
2. The applicant and the petition fully complied with submittal requirements and procedures for an affordable housing zone change petition per Section 44A.4, and fully complied with all applicable provisions of the Connecticut General Statutes and Cheshire Zoning Regulations.
 3. The property is well suited for multi-family residential development given its size, historic development and use, transitional location, being adjacent to two existing multi-family uses, and proximity to open space, employers, a state highway and the CT Transit bus line.
 4. The proposed zone change is consistent with the Town of Cheshire's 2016 Plan Of Conservation and Development, particularly the goal "to attract moderately-0 priced housing to meet the needs of residents of moderate incomes, including a broad cross section of community residents such as police, firefighters, teachers, young adults and senior citizens.
 5. The zone change to AHD is consistent with the zoning surrounding 50 Hazel Drive and with the overall scheme of the Zoning Regulations and Zoning Map Of the Town of Cheshire. It will advance the goals of collaboratively adding Affordable housing in Cheshire and employing an alternative to Section 8-30g Of the Connecticut General Statutes that the Commission articulated in the POCD and in Section 44A.
 6. The current supply of affordable housing within the Town and the Central Naugatuck Valley Planning Region is inadequate. There is a clear and substantial need for creation of new affordable housing in Cheshire, particularly in the moderately priced category that Section 44A seeks to address. The proposed zone changes will help to alleviate some of that documented need.
 7. Section 44A.5.1 of the Zoning Regulations provides that the Commission shall Approve a petition to create an Affordable Housing District unless it finds the following:
 - A) Denial of the petition is required to protect substantial public interest in health, safety, or other matters which the Commission may legally consider;

such substantial public health interests clearly outweigh the need for affordable housing; and such substantial public interests cannot be otherwise protected by reasonable changes to the petition; or

B) The petition would locate affordable housing in an area which is zoned for industrial use and which does not permit residential uses or the petition does not propose an Affordable Housing Development, as defined in Section 44A.2.2 of these Regulations or the Petitioner does not meet the Qualifying Standards of Section 44A.3.

8. Denial of this petition is not required to protect any substantial public interests In health, safety, or other matters which the Commission may legally consider.
9. No substantial public interests implicated by the proposed zone change Clearly outweigh the need for affordable housing in Cheshire.
10. Any substantial public interests implicated by the proposed zone change Can be protected by reasonable changes to the petition.
11. The subject property is not zoned for industrial use.
12. The petition proposes an Affordable Housing Development, as defined in Section 44A.2.
13. The effective date for the zone change of 50 Hazel Drive to AHD is October 9, 2020, following publication/posting of the notice of this approval.

Discussion

Mr. Brucato asked about the zone change approval and then the development is not done...and if the zone change remains.

The Commissioners were told by Mr. Voelker that the zone change approval is for the property.

Mr. Linder made a statement for the record regarding e-mails and a letter...and he understands other Commissioners also received-mails and a letter...from Hazel Drive residents and neighborhoods affected by the subject application. Mr. Linder stated he did not read these e-mails and letter, did not take in the contents, did not discuss them with the residents and did not engage in any discussion of the application. Subsequently, he learned that State Rep. Liz Linehan disseminated the PZC Commissioners e-mail addresses to these residents. These addresses are not made public by the Town.

Mr. Linder said this is a questionable move on the part of Ms. Linehan, as any direct contact from a resident, via e-mail, to the Commissioner while the public hearing is open could have led to an ex parte communication. This would jeopardize the integrity of the vote and put the application in jeopardy. Mr. Linder admonished Ms. Linehan to refrain from reckless behavior like this in the future.

Commissioners Natale, Todisco, Downes, Kurtz, Kardaras, Anderson, Strollo and Selmont reported they also received the e-mail and letter communications from residents...most was part of the public record. These Commissioners stated they did not read the e-mails and letter, and turned them over to the Planning Department. Commissioner Brucato received communication from a friend in the area, rescinded the message, and told the friend he could not talk about the application with him.

Mr. Todisco stated he will vote in favor of the application as requirements of the regulations have been met. He commented on the difficulty of voting on something which makes neighbors unhappy, but does not believe the development will cause hardship for the neighborhood. Traffic is one concern but will come from the apartment complex up Hazel Drive and out...with no reason to drive through neighborhoods. This property had a past intense use...a nursing home...until 15 years ago.

Mr. Brucato agreed with the comments made about this being a nice area for an AHD zone. He thinks the development could be smaller and there are some hardships on the area residents.

Mr. Kardaras stated he is in favor of the motion as the application meets all the requirements.

Chairman Kurtz supports the motion and application and it came in using Cheshire's AHD regulations.

VOTE The motion passed unanimously by those present.

Request for defer or delay construction of 45 parking spaces on the Affordable Housing Site Development Application, 50 Hazel Drive, Lamp Realty LLC as shown on plans entitled "Site Plan, Grading and Utilities, Sheet 6 of 14, Lakeside of Cheshire, Residential Housing, 50 Hazel Drive, Cheshire CT" revised through May 29, 2020.

MOTION by Mr. Bowman; seconded by Mr. Kardaras

The applicant proposes to construct 182 parking spaces, and it has shown on the plans adequate area and locations to construct the 45 deferred parking spaces at a later date, if necessary. All of the 228 parking spaces have received approval from the Cheshire Inland Wetlands and Watercourses Commission. The Cheshire Planning and Zoning Commission finds that strict compliance with the standard of two spaces per dwelling unit is not required to protect substantial public interests in health, safety or other matters which the Commission may legally consider; such substantial public interests do not clearly outweigh the need for affordable housing; and such substantial public interests can be protected by reasonable changes to the application, and hereby approves this request. At such time as the Commission notifies the applicant that the 183 spaces are insufficient, applicant shall promptly construct the 45 deferred spaces or such portion thereof as the Commission shall direct. The applicant shall also retain their right to construct the additional 45 spaces in accordance with the approved plans if they determine that these spaces are needed.

Discussion

Mr. Natale stated that based on what was heard in the public hearings about statistics, history, like projects...there is no data or projections on like projects with parking spaces, what it will do to traffic flow, etc. and he will not vote in favor of the motion.

Mr. Bowman noted this has been a contentious application. It received IWW approval, and asked if this is for the full number of parking spaces necessary by the zoning regulations.

The Commission was told by Mr. Voelker that the IWW approval was approved for a full build-out of the parking spaces.

During the public hearings, Mr. Bowman said there were two experts speaking to the additional parking as not necessary. If so, and if the PZC has ability to go back and require the applicant to put in the extra parking, it is Mr. Bowman's opinion there is no necessity in having more impervious area than necessary. He asked for indication of how much impervious surface this will entail.

Mr. Voelker advised that it is about 7,300 S.F. of additional impervious surface.

In that regard, Mr. Bowman doubled the impervious square footage to 15,000 S.F. and said the issue does not become a financial situation. Putting in 15,000 S.F. of additional parking is minimal to the cost of the project. The question is whether it is necessary; two experts have said it is not necessary; no expert has said it is necessary; and IWW approved the application with the full number of parking spaces. The Commission, at any time, can go back and request additional spaces. Mr. Bowman will vote in favor of the application.

Mr. Kardaras will vote in favor of the application. In addition to the expert witnesses, he said other people have stated the trend is for people to have less cars, less driving, and with less impervious surface is a good thing.

Mr. Todisco agreed with comments from Mr. Bowman and Mr. Kardaras.

Mr. Linder agreed with comments previously stated. He said this is a simple matter. If there are future problems and more spaces are needed, the Commission can require the additional parking spaces.

Stating that is correct, Mr. Voelker commented on a project of this scale and if there is parking on the street it will be seen and addressed with requirement of more spaces. The applicant would have to respond to this request as soon as it is reasonable. The parking spaces for the AHD will be installed in Spring time...and if more are needed they would be put in. If the applicant drags out the installation of the additional spaces the Town has grounds for court action. The Town's legal fees would be paid by the applicant since they created the problem.

Chairman Kurtz stated that in the past when the Commission has requested deferred parking spaces be installed there has been no problem with adherence to this request. The Commission has the right to make this request of the developer. He will vote in favor of the motion...to not install the spaces until required by the Commission.

Mr. Dawson agreed with all the comments made. During his time on the Commission, he noted there has never been a problem with requesting installation of deferred parking spaces.

VOTE The motion passed 8-1; Mr. Natale opposed.

2. Special Permit Application
Lamp Realty LLC
50 Hazel Drive
Construction of a 114-unit affordable
Housing development (2 residential

PH 7/13/20
PH 7/27/20
MAD 9/30/20

MOTION by Mr. Dawson; seconded by Mr.Kardaras.

MOVED that the Planning and Zoning Commission approves the Affordable Housing Site Development of Lamp Realty LLC to construct a 114-unit Affordable Housing Development with 183 parking spaces provided and 45 spaces deferred at 50 Hazel Drive (Assessor's Map 15/Lot 52) from SARDD/R-80 to Affordable Housing District (AHD) pursuant to Sections 40 and 44A of the Cheshire Zoning Regulations.

In approving this petition, the Commission finds the following:

1. The Commission has approved a zone change to Affordable Housing District for the 50 Hazel Drive property.
2. The proposed development qualifies as an “Affordable Housing Development” and as a “set-aside development”, as defined in Section 44A.2.2 of the Zoning Regulations.
3. The applicant fully complies with all of the standards of Section 44A and Section 40, as well as other applicable sections of the Cheshire Zoning Regulations and Connecticut General Statutes.
4. Applicant and its team have satisfactorily addressed all questions and concerns raised by the Commission, Town Staff, and the public throughout the proceeding.
5. The Affordability Plan included in the submission properly sets forth the income verifications, rent calculations, and other rules governing the affordable units, in compliance with Section 44A.6.3(13).
6. The current supply of affordable housing within the Town and the Central Naugatuck Valley Planning Region is inadequate. There is a clear and substantial need for creation of new affordable housing in Cheshire, particularly in the moderately-priced category that Section 44A seeks to address. The proposed Affordable Housing Development will alleviate some of this documented need.
7. Section 44A.7.1 of the Zoning Regulations provides that the Commission shall approve an Affordable Housing Development Application unless it finds the following:
 - A) Denial of the application is required to protect substantial public interest in health, safety, or other matters which the Commission may legally consider; such substantial public health interests clearly outweigh the need for affordable housing; and such substantial public interests cannot be otherwise protected by reasonable changes to the application; or
 - B) The application would locate affordable housing in an area which is zoned for industrial use and which does not permit residential uses or the application does not propose an Affordable Housing Development, as defined in Section 44A.2. of these Regulations; or

- C) The application does not meet the requirements for an Affordable Housing Development Application as set forth herein.
8. Denial of this petition is not required to protect any substantial public interests in health, safety, or other matters which the Commission may legally consider.
 9. No substantial public interests implicated by the proposed zone change clearly outweigh the need for affordable housing in Cheshire.
 10. Any substantial public interests implicated by the proposed zone change can be protected by reasonable changes to the petition.
 11. The subject property is not zoned for industrial use.
 12. The petition proposes an Affordable Housing Development, as defined in Section 44A.2.
 13. The applicant meets the requirements for an Affordable Housing Development Application as set forth in Section 44A.
 14. Provisions for water, sewerage and storm water are adequate and do not overburden existing water, sewer and storm water drainage facilities on-site or off-site.
 15. The pedestrian circulation system is adequate for the pedestrian traffic anticipated in the development and incorporates all necessary safety precautions for children walking to and from schools or bus stops.
 16. On-site, and resultant off-site, traffic and circulation patterns do not create traffic safety hazards or substantial traffic congestion within the AHD or at intersections of AHD access drives and existing public streets.
 17. Applicant shall execute an "Affordable Housing Restrictive Covenant" complying with Section 8-30g of the Connecticut General Statutes and Section 8-30g-9 of the Regulations of Connecticut State Agencies. The final form of the Affordable Housing Restrictive Covenant shall be subject to review and approval by the Town Attorney for the Town of Cheshire.
 18. Applicant shall file a bond with surety with the Commission to assure completion of the public improvements for the development as shown on the approval map submitted in connection with the Affordable Housing Development Application.

Discussion

Mr. Brucato stated this development, 2 buildings, is too large for the area; many cars will be leaving the area; it is unsafe for children standing for the school bus; and with COVID-19 it is putting people too close together, making the pandemic more serious. These should be smaller buildings at greater distance. The noise across the water will also disrupt the neighbors. An AHD is needed in Town, but this one is too massive for the area. Mr. Brucato will not vote in favor of the motion.

Mr. Linder said this is a good development. This neighborhood has been living with this blighted property for many years. The nursing home generated traffic without complaints. He will vote in favor of the motion. Mr. Linder pointed out we are back to the same situation where the Town road needs improvements; sidewalks do not, basically, exist at this time; sidewalk improvements will be needed for the safety of the kids going to the bus stop; and a bus stop shelter should be made for these kids. Mr. Linder talked about the apartment at the end of RT 70 (street) and cars parking all over the place. If this parking continues it will block kids getting to the bus stop on the sidewalk. This is all the responsibility of the Town and the ZEO should check into this to fix the situation. The Commission cannot require off-site improvements, but the Town is put on notice for expected improvements.

According to Chairman Kurtz, OSTA has many requirements for a project of this magnitude, and will come in with their requirements.

Mr. Voelker said OSTA has more authority and requirements than the Town, and could demand them to be made. OSTA can demand the applicant clear the sidewalks...but not repair them. The applicant has offered to clear the sidewalks one time. There cannot be reliance on OSTA for everything to be done on the roads.

VOTE The motion passed 8-1; Mr. Brucato opposed.

- 3. Special Permit Application
 Richard Chevrolet/Jill Silverman
 Highland Avenue
 To Construct a new building and parking
 Area for Richard Chevrolet**

**PH 7/27/20
PH 9/14/20
MAD 11/18/20**

MOTION by Mr. Dawson; seconded by Mr. Brucato.

MOVED that the Cheshire Planning and Zoning Commission finds that the proposal to construct a used car store and service and body shop as shown on plans entitled "Used Car Store and Service and Body Shop, Highland Avenue, Cheshire CT" revised through September 8, 2020 are consistent with the requirements set forth in Section 30, Schedule A, Item 43 and Section 40 (Special Permits) of the Cheshire Zoning Regulations and hereby approves this application subject to compliance with comments from the Cheshire Fire Department dated August 28, 2020.

VOTE The motion passed unanimously by those present.

VIII. NEW BUSINESS

- 1. Zone Map Change Petition**
Ricci Construction Group Inc.
687 South Main Street
R-20 to R-20A
SET FOR PUBLIC HEARING ON OCTOBER 14, 2020

- 2. Special Permit Application**
Michael Delaney
154 Mixville Road
Accessory Apartment
SET FOR PUBLIC HEARING ON SEPTEMBER 29, 2020

- 3. Site Plan Application**
Counterweight Brewery Co. Inc.
7 Diana Court
To establish a Brewery with a tasting room
With food service including food trucks, a
Restaurant with entertainment & event facilities
SET FOR SEPTEMBER 29, 2020

- 4. Special Permit Modification**
Rondo's Realty LLC
1721 Highland Avenue
Parking expansion for restaurant
SET FOR PUBLIC HEARING ON SEPTEMBER 29, 2020

IX. ADJOURNMENT

MOTION by Mr. Kardaras; seconded by Mr. Dawson.

MOVED to adjourn the special meeting at 8:40 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk