

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION
SPECIAL MEETING HELD IMMEDIATELY FOLLOWING THE PUBLIC
HEARING HELD ON MONDAY, JULY 9, 2012 AT 7:30 P.M. IN COUNCIL
CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Earl Kurtz, Chairman; Sean Strollo, Vice Chairman; Tali Maidelis, Martin Cobern,
S. Woody Dawson, John Kardaras, Gil Linder, Louis Todisco

Alternates: Leslie Marinaro

Absent: Lelah Campo, Ed Gaudio and Jim Bulger (alternates)

Staff: William Voelker, Town Planner

I. CALL TO ORDER

Mr. Kurtz called the special meeting to order at 8:21 p.m.

Mr. Kurtz read the fire safety announcement.

II. ROLL CALL

Mr. Maidelis called the roll.

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.

VI. ACCEPTANCE OF MINUTES

Special Meeting Public Hearing 6/25/2012

Regular Meeting 6/25/2012

MOTION by Ms. Marinaro; seconded by Mr. Maidelis.

MOVED to accept the minutes of the Special Meeting Public Hearing of 6/25/12
and Regular Meeting of 6/25/12 subject to corrections, additions, deletions.

VOTE The motion passed 8-0-1; Dawson absent from Chambers.

VI. COMMUNICATIONS

- 1. Letter from Kevin J. Hecht, Esq. dated June 29, 2012
RE: John and Olga McKinley – 1403 Marion Road.**

Mr. Voelker read the letter into the record.

Attorney Kevin Hecht represented the applicant, to address stipulation #3 on an
approval granted by the commission on November 25, 1991.

The Commission had copies of the map and minutes from this meeting.

Mr. Voelker explained that in 1991 the commission approved the subdivision of the McKinley property. There is a right of way to the rear where a house is built. When the approval was granted the commission said that if anyone else were to use this right of way it must be improved to rear lot standards according to Section 5.5. The applicant wants to bring the driveway onto this right of way. It is within the commission's discretion to allow this.

Cheshire Fire Department comments, dated 7/3/12 were read into the record.

Mr. Hecht said there is a 50 foot right of way and it is anticipated, in the future, there will be a road developed for the rest of the property.

With respect to the improvements and comments from the Fire Department, Mr. Hecht said his clients are willing to comply with the comments and requirements. Most of the work has been done, so they are comfortable with compliance.

The map of the property was displayed.

Mr. Voelker said the only other concern was the home in the rear of the property.

The commission was informed by Mr. Hecht that the original signed letter was given to the commission members.

According to Mr. Voelker the concern is that anyone with an interest in the property would have to consent to the modification.

Mr. Hecht reported that Irene and Robert McKinley are the property owners; Barbara and Daniel Hedden occupy the rear house with access over the right of way; and all have signed with no objection to this connection.

Mr. Voelker stated there are no concerns regarding this application.

In the 1991 documentation, Mr. Todisco noted a 3rd unit has been added.

Mr. Hecht said it has been fully constructed and is awaiting a certificate of occupancy.

Mr. Todisco said in 1991 there were two houses and now there is a 3rd house, a front unit.

What was anticipated in the approval was another rear lot, and Mr. Hecht said this happened to be a front lot. Stipulation #3 of Section 5.5 says "rear lots", and John McKinley was unaware of this, and his lot was a frontage lot, did his plan

and poured his foundation. He oriented his garage and access to his house off the right of way, anticipating in the future a road going by his house and he would be on the road frontage at that point. There is also a public safety concern because if this is not approved, a driveway could be established off Marion Road very close to the existing right of way. This would not be a good situation with more houses and road developed in close proximity to the new road as it would be installed.

By building the new driveway to Marion Road, Mr. Todisco said this would eliminate the need for this application, but is a less desirable configuration.

It is less desirable from a public safety standpoint and the way the home is oriented. Mr. Hecht said you must go up the right a way to enter the garage, or cars would be parked near Marion Road with a walk to the garage.

Mr. Todisco asked about the stipulation #3, and noted the commission was told the driveway is wider.

It is 17 feet wide, and Mr. Hecht said this is beyond where John McKinley lives.

Mr. Todisco asked how this would not be in compliance with Section 5.5.

For one thing, Mr. Hecht said it is not a rear lot. The requirements of Section 5.5 require the access way to service all three lots, 15 feet wide, 6 feet gravel shoulders, and pull off requirement depending on the length. What he is saying is that this does not impact the newly built McKinley house, the parents or the Hedden property. It does provide an opportunity to build an existing right of way as opposed to a driveway on Marion Road. The stipulation is ambiguous and gray.

Given the facts as stated, Mr. Todisco said the right of way would comply to a rear lot.

Mr. Hecht said it would comply up to the new McKinley home, but does not comply beyond this to the Hedden home which is up the road.

Mr. Voelker said this lot was not created as part of the subdivision, it is a frontage lot of record, and they want to tie their driveway to one that already runs by their house.

In the future, if the driveway is brought to Marion Road, Mr. Kurtz said they would still have to comply with the regulations.

If new lots are cut out they must build a road, and Mr. Voelker said this would even be for one more lot. They could build their own driveway out to Marion Road; there are no lots being created here; this is about access.

There is an existing lot with a home constructed on it, and Mr. Hecht said it is oriented towards the right of way to access the home from this right of way rather than Marion Road. And, this makes sense.

Mr. Dawson said this is the reverse of three lots on a private road, except one is in the front rather than the back. There is no loss and no gain.

Mr. Hecht said this is safer than having three lots on a rear access way, and the Town is gaining more public safety, and a cul de sac will be established for turn around for public safety vehicles.

Mr. Cobern said the fact that the commission, in 1991, referred to this particular Section dealing with rear lots, and assumed any more lots on the original piece of property would have to be rear lots. This would trigger the rear lot regulations. We have a different situation with an adjoining lot and they want to tie in very close to the front part of the driveway. As he sees it, Mr. Cobern said this is a fine line difference, and with the restriction from the Fire Department, anything beyond this will have to be a cul de sac, town road. He sees no harm in allowing this connection.

Mr. Kurtz agreed with Mr. Cobern's statement.

MOTION by Mr. Cobern; seconded by Ms. Marinaro.

MOVED that the Planning and Zoning Commission approve the request to enable a driveway connection for the frontage lot located at 1415 Marion Road as shown on plans entitled "Proposed Improvement Location Map for John McKinely, 1415 Marion Road, Cheshire CT dated March 30, 2010 and prepared by Kratzert and Jones, 1755 Marion Road-Waterbury Road, Milldale CT."

This approval is conditioned upon compliance with the comments from the Cheshire Fire Department dated July 3, 2012.

VOTE The motion passed 8-0-1; Strollo recused.

V. UNFINISHED BUSINESS

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| 1. Subdivision Application <u>Ricci Construction Group Inc.</u> 261 Cook Hill Road 2 lots (1 existing) CONTINUED TO JULY 23, 3012 | PH 6/11/12 PH 6/25/12 PH 7/9/12 MAD 9/12/12 |
| 2. Zone Text Change Petition <u>Matthew J. Bowman</u> Section 30, Schedule A to add a new | PH 7/9/12 MAD 9/12/12 |

**Paragraph 1B-Accessor Second Dwelling
CONTINUED TO JULY 23, 3012.**

VI. ADJOURNMENT

MOTION by Mr. Cobern; seconded by Mr. Kardaras.

MOVED to adjourn the meeting at 8:34 p.m.

VOTE The motion passed unanimously by those present.

Attest: Transcribed from tape.

Marilyn W. Milton, Clerk