

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, NOVEMBER 9, 2015, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Earl J. Kurtz, Chairman; Sean Stollo, Vice Chairman; Members: John Kardaras, Vincent Lentini, Gil Linder, Louis Todisco, David Veleber.

Alternate - Diane Visconti

Absent: S. Woody Dawson and Edward Gaudio; Alternates Jon Fischer and Leslie Marinaro.

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

The clerk 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.

V. BUSINESS

Town Planner Voelker read the call of public hearing for all the applications.

- 1. Zone Text Change Petition Application**
Airgas USA LLC
To add Section 32.7.2 to Section 32.7
Outside Storage.

PH 11/09/15
MAD 01/13/16

Attorney Anthony Fazzone represented the applicant.

Attorney Fazzone stated the facility is at the end of McCausland Court, and the application deals with Section 32.7 which allows outdoor storage in industrial or commercial zones within 20 feet of the property line. This is restricted in residential areas and front yards without outdoor storage. The applicant requests the current regulation be modified to permit outdoor storage within 10 feet, no closer than 10 feet to the property line, and only in industrial and commercial zones, and not adjacent to residential boundaries or in the front setback area. To go closer to the 10 foot boundary the regulation proposes it be by special permit application. Currently in the I-2 zone they are done by site plan application, not special permit, with the burden on the applicant to show it would not pose a threat to the public health, safety and welfare.

The applicant, Airgas, will have to come back with a special permit application. Because the zone text change affects land within the district of the watershed and aquifer protection area, information has been submitted to the Regional Water Authority (RWA).

Town Planner Voelker read the RWA letter dated 10/15/15 into the record. He also read letters from the Naugatuck Valley COG dated 11/3/15, South Central Regional COG dated 11/4/15, and Capital Region COG 10/21/15 into the record.

In the current regulation, Chairman Kurtz commented on a "shed enclosure".

Under the code Mr. Voelker said it would be a pavilion, and the applicant is asking for a storage structure to be closer to the property line at 10 feet. The regulation states an enclosure to screen from view from any other lot or street.

Mr. Strollo asked about box storage units.

These are permitted on a temporary basis and Mr. Voelker said the amendment to the regulations does not change this.

Attorney Fazzino stated the idea of the regulation was to have storage or screening from adjacent property. He stayed with the language in the original regulation, which permitted outdoor storage, requiring screening, shrubs, berms, no closer than 20 feet.

According to Mr. Voelker, to get closer to the property line, a special permit is required and review by other agencies, particularly the Cheshire Fire Department for safety around buildings. CFD did not have any issues with the text amendment, but would have comments for a special permit application. With public health, safety and welfare issues, the amendment permits the applicant to go in and ask for a 10 foot property line.

Mr. Todisco clarified that an applicant can ask for a storage area if it is not adjacent to a residential property.

THE PUBLIC HEARING WAS CLOSED.

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| 2. Special Permit Application
<u>CK East Johnson North LLC</u>
16 and 456 East Johnson Avenue
Earth Regrading for Agricultural Use | PH 11/09/15
MAD 01/13/16 |
| 3. Earth Removal, Filling or Regrading Permit
<u>CK East Johnson North LLC</u>
16 and 456 East Johnson Avenue
And Waiver Request of Subsection 3.9
And 11 under Section 25.5 | PH 11/09/15
MAD 01/13/16 |

Attorney Anthony Fazzino and Severino Bovino, Kratzert, Jones & Associates represented the applicant.

The Commission was told by Attorney Fazzino that this is an after the fact application, and the grading shown on the plans has been completed, and stabilization of the area is also completed. The applicant, Mr. Kurtz, was not aware of the fact he needed an application to regrade his property. No material was brought onto the site and no material was removed from the site. Prior to the grading the site area was uneven. It was a Mum field to grow Mums and potted plants. The activity is on East Johnson Avenue; it is in full view; nothing is being hidden; and there is an IWW application pending which is expected to be approved on November 17th.

The Town Engineer made comments and recommendations, and the applicant is in agreement with them. A revised plan has been submitted which shows one of the improvements to the retaining wall which the Town Engineer required.

Mr. Bovino displayed the site plan and pointed out the area where the grading took place. It is 16 and 456 East Johnson Avenue, parcels 2 and 3 on the Assessor's Map, 13.3 acres in an I-2 zone, served by public water and sewers, bounded on the north and west by Whole Foods. The site is also bounded by the Quinnipiac River and East Johnson Avenue. The site is an agricultural use and is still to be used for agriculture. The concrete block wall was installed before the river and wetland area. The plans show the proposed grades and existing grades; land slope was 6% to 7% and is now 1% to 1.25%, and even less in some areas; there is reduced runoff; the applicant installed a stone trench and a silt fence on the town side of the wall. The entire area is covered with filter fabric. 30,000 cubic yards of material were moved, with no import or export of material. An aerial map was provided with the application with names and addresses of surrounding properties. Erosion details are on the plans. Engineering comments were received; the applicant has no objection to these comments; and #4 is already addressed on the plans.

A question was raised by Mr. Todisco about the property being more level now than before, and surrounding properties being flat.

The grade was 6% to 7%, and Mr. Bovino said it is now 1.25%, and does not affect surrounding properties, There is no problem created when it rains; there have been multiple staff inspections; there is no silt in the roadway.

Mr. Fazzino reported he has spoken with IWW people and Ms. Simone from the Town staff, who determined it was best to complete the filter fabric to lessen opportunity for erosion.

Because this is detailed work to be done, Mr. Veleber questioned the people doing the work also knowing a permit was needed.

There was no involvement of construction of a building or site plan approval, and Mr. Fazzone said it was unknown that a permit was needed. The use of agriculture is a matter of right in every zone, but no one thought about a permit. On the site plan it shows the plantings, and the Town Engineer requested planting not take place until the future road grading is completed on the East Johnson Bridge project.

Mr. Voelker referred to his staff memo and the fact that the regulations state...there can be no more than one undivided area exceeding five acres in size opened with the lot at one time. The total area of this property is 13.3 acres, most of which was subject to regrading. In the applicant's case more than five acres was exposed at one time. He noted that for the north end development project, there was a request to open more than five acres at one time. With regard to "agriculture" there is an exception to the regulations, unless there are wetlands involved. The subject grading could have been achieved over 15 years without a permit. The applicant is requesting the Commission to approve and cover any regulation issues with an application of this size.

With regard to the minimum option, Mr. Fazzone said the regulation requires restoring the five acres and posting of a bond.

Mr. Todisco believes this application would have been approved as it is a fairly routine request.

Mr. Voelker said the staff report would not have addressed anomalies, and this is one of many reasonable things to be done on the property without creation of environmental impacts. The work done did not create any problems. Calls have come from DEEP about flood plains and flood storage area. There is a reasonable balance of cuts and fills out on the site. Engineering had comments about making repairs to the wall.

Attorney Fazzone commented on the application coming before the PZC in advance, and believes it would have been approved. By placing the black fabric down it would have kept the work within the five acre limit.

Mr. Voelker read the letter from the RWA dated 10/26/15 into the record.

PUBLIC COMMENTS AND QUESTION

Briana Schein, 62 Hilltop Road, believes the work would have been permitted, and RWA stated no hazard. She thinks the application should be approved.

David James, President of Quinnipiac River Watershed, 11 Carl Street, Meriden CT, raised a question about proximity to the river. He also cited concerns about aesthetics, runoff, and incursion of pesticides and fertilizers into the river. He also questioned the volume of water, the wall aesthetics and mitigation of buffering.

Mr. Bovino stated there is no increase in volume; there is less impervious surface now; and the house and barn have been removed.

Attorney Fazzone advised that the pesticides and fertilizers are applied directly to the individual pots of plants. He said that Mr. Kurtz had Mum fields on this property and across the street; RWA inspects regularly; and there have never been issues with pesticides or fertilizers. Regarding aesthetics, the area between the wall and the river is getting into some of the upland review area, and below that is getting into the wetland area. The applicant felt it was better to let the natural habitat remain there without disturbance to the area.

Mr. Veleber commented on the aesthetics, which he clarified will return naturally to IWW type vegetative state.

On the plans, Mr. Fazzone pointed out the wall on the site, wetlands boundary and upland review area. He noted that disturbance to these areas requires IWW approval.

Mr. Bovino pointed out the road, curb cuts, old slabs, and said in the winter time they can all be well seen, but in summer there is growth and they will not be seen. The wall was built outside the 100 year flood plain.

THE PUBLIC HEARING WAS CONTINUED TO 11/23/15 PENDING IWW APPROVAL.

VI. ADJOURNMENT

MOTION by Mr. Kardaras; seconded by Ms. Strollo.

MOVED to adjourn the public hearing at 8:15 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk