

**CHESHIRE PLANNING AND ZONING COMMISSION
PUBLIC HEARING
Monday, May 9, 2016 7:30 PM
COUNCIL CHAMBERS
TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE, CT 06410**

Present:

Earl J. Kurtz, Chairman, Sean Strollo, Vice Chairman; Members: Vincent Lentini, Louis B. Todisco, Gil Linder, John Kardaras
 Alternates: Jeff Natale, Jon Fischer, Jim Jinks
 Absent: David Veleber, S. Woody Dawson, Edward Gaudio
 Staff: William Voelker, Town Planner

I. CALL TO ORDER: Chairman Kurtz called the meeting to order at 7:30 p.m.

II. ROLL CALL

The clerk called the roll.

III. DETERMINATION OF QUORUM

A quorum was present for the meeting.

IV. PLEDGE OF ALLEGIANCE

All present recited the Pledge of Allegiance.

Mr. Voelker read the Legal Notice Section 11.1 for the continuation of the public hearing for the record for Clearview Farm Preserve, LLC which included: 1. Waiver Requests, 2. Special Permit Application, and 3. Subdivision Application.

V. BUSINESS

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|---|---------------|
| 1. Waiver Requests | P.H. 02/22/16 |
| <u>Clearview Farm Preserve, LLC</u> | P.H. 03/14/16 |
| Pursuant to Section 11.1 Variances or Waivers | P.H. 03/28/16 |
| Of Regulations of the Subdivision Regulations | P.H. 04/25/16 |
| | P.H. 05/09/16 |
| | MAD 07/13/16 |
| | |
| 2. Special Permit Application | P.H. 02/22/16 |
| <u>Clearview Farm Preserve, LLC</u> | P.H. 03/14/16 |
| 947 Cornwall Avenue | P.H. 03/28/16 |
| Rear Lot access for 3 lots | P.H. 04/25/16 |
| | P.H. 05/09/16 |
| | MAD 07/13/16 |
| | |
| 3. Subdivision Application | P.H. 02/22/16 |
| <u>Clearview Farm Preserve, LLC</u> | P.H. 03/14/16 |
| 21 Lots | P.H. 03/28/16 |
| | P.H. 04/25/16 |
| | P.H. 05/09/16 |
| | MAD 07/13/16 |

Attorney Anthony Fazzone, Two Towne Center, represented the applicant, Clearview Farm Preserve, LLC.

Mr. Fazzone introduced a map as an exhibit showing the Bens property prior to it being transferred to the State of Connecticut. The yellow section is the upper ridgeline and the blue section is the lower portion. The portion of the yellow section was deeded from the Bens trust for public land giving the Town of Cheshire a conservation easement. A question was asked if the Bens property goes into the town of Prospect to which the answer was yes. The section of the property is near the water tower. 62 acres of land is deeded and 25 acres remain as Bens property. The second page of the deed shows the conservation easement granted to Cheshire which states that this property should remain as is for public access.

The property subject to the drainage easement to Bernard Barnett discussed during previous P&Z meetings, services the drainage system that comes off the Deaconwoods subdivision. A reservation in the deed assigned discharge and storm water run-off from Maybelle G. Bens, and her heirs, property identified as Parcel A through Parcel B. This area is off of Mountain Road. The drainage easement comes off Mountain Road and across the piece of land owned by the State. The subdivision map shows a detention basin that runs into the area reserved by the Bens deed.

A question was raised about the covenants and restrictions that creates the Homeowner's Association. Mr. Fazzone introduced a revised declaration for the record. He has worked with the town engineer and attorney on the language of the declaration specifically how the detention basins are maintained. All basins north and south are the responsibility of the homeowners association and are covered by the declaration. The main revision of the declaration deals with snow removal on the sidewalks. Paragraph 18 was added to show that the Homeowner's Association is responsible for snow removal from the corner space lot which is the location of the detention basin to Mountain Road including the sidewalks in front of the Smallwood property.

Ms. Smallwood submitted a memo to complain about snow removal. She also sent an email regarding slope rights admitting that she was unclear of the terms and conditions. The slope rights reserved in the declaration are only in the area along the road in the subdivision that front properties. If slope rights and grading are required, the developer can slope the roadway in accordance with town specifications.

The Homeowner's Association and property owners are responsible for maintenance detention basins based on a schedule put in place by the town engineer's office with specific details regarding mowing, etc.

A question was raised regarding dissolution of the Homeowner's Association. Within the declaration, if dues go unpaid, a lien will be issued and the town has the right to provide maintenance services in order for upkeep of the drainage system. The town also has the right to lien property if it is not maintained based on a Notice of Failure to Pay Dues from the Homeowner's Association.

Mr. Dell and Ms. Smallwood have expressed concerns that the subdivision goes by their properties. Their homes face the roadway to the subdivision. No formal easements were granted at the time the lots were designated. However, formal driveway easements were granted to titles/deeds of the predecessors of the Dell and Smallwood properties. Mr. Fazzone introduced the deeds for the record.

Mr. Dell and Ms. Smallwood, in their deeds, assume titles subsequent to the terms of the easement. One provision of the easement states that owners and their heirs should not obstruct or impede the Bens property.

There was discussion of Lot 21 of the subdivision being a fill area. There was no fill discovered following 40 deep hole tests done, including the lot 21 area. Ownership of this lot will be retained by Bens with a deed restriction for no development.

Mr. Voelker stated that if the subdivision is approved, the deed restriction and easement will be recorded in the town's land records.

There was a discussion regarding non encroachment line. Referenced in the declaration, that there will be no disturbances (tree removal, etc.) and that the area will be clearly marked with monuments and plaques designed by the town and installed by the developer. Walking and access to the state land will be permitted. The Wetlands and Zoning officers can inspect anything that is brought to their attention.

There was a discussion regarding detention basins drawing mosquitos. The basins are designed as dry bottom and are not intended to retain water for any length of time. Tests show that soils are excellent for drainage.

Mr. Brown, P.E., Traffic Engineer from Milone & MacBroom answered questions raised regarding a proposed 22 ft. wide roadway on Cornwall Avenue Ext., recurring speeds on Mountain Road and slowing down traffic. The road will be designed to fit the context of the road as well as being efficient and calming traffic. A 22 ft. wide roadway is effective without compromising access for emergency vehicles.

Another concern is construction of a 4-way stop at Mountain Road and Cornwall Avenue. Per the Cheshire Police Department, traffic patterns do not warrant a 4-way stop at this location.

Mr. Linder raised a question regarding the need for calming traffic. Because the designated area is a cul-de-sac, where traffic is slow by nature, why is there a need for calming traffic.

Mr. Brown repeated that the road will be designed to fit the context of the road.

Mr. Linder asked Mr. Brown if he feels comfortable with a 22 ft. roadway when parked cars and maintenance vehicles are there. The road literally becomes one lane.

Mr. Brown replied that because the traffic volume is low, he feels comfortable with a 22 ft. roadway.

Mr. Natale asked about the Bens Trail at the end of the cul-de-sac and if this land will be deeded to the town.

Mr. Fazzone answered that it is proposed to be deeded to the town.

Mr. Natale asked if there is to be a trail there, the town will post a marker to identify it.

Mr. Fazzone answered that it is up to the town to make that decision.

Mr. Natale asked that with a proposed trail and the statement made by Mr. Linder regarding multiple vehicles parking in the cul-de-sac and to access the trail. Will there be a concern with additional vehicles being parked there with the 22 ft. road.

Mr. Fazzone answered that the trail exists today and that a full size cul-de-sac will make the situation better than it is today. In addition, six gravel based parking spaces will be proposed on the roadway.

Mr. Voelker stated that there would be more parking space available to the public because there will be a 50 ft. radius where nothing is there now.

Mr. Natale asked the traffic engineer to speak on this subject.

Mr. Overton, P.E., from Milone & MacBroom said that the limited turnaround area can probably accommodate two cars. The idea is to improve the cul-de-sac to the standards of the town and he cannot see how houses being built will interfere. If the area can accommodate two cars then it can accommodate more. An effort was made to preserve the access to the trail and to improve the turnaround that exists there now.

Mr. Overton commented on lengthy discussion during the previous public hearing and public testimony made in person and in writing. Specifically, written testimony from Matthew Dell was noted. The Dell testimony was reiterated by other public testimony regarding regulations in Sections 3.4 and 49.6. for soil erosion and sediment control regulations. The requirements were reviewed and the plan provided shows and displays all of the information that is required. The information also complies with the storm and erosion guidelines from the DEP. The plan has been reviewed by engineering and town staff and provides protection from erosion during development of the subdivision.

A question was raised on Section 4.4 as to whether all relevant drainage was shown on the plans. Mr. Dell mentioned the existence of a cross culvert affecting his property – a 12 or 15 inch pipe. This was not recognized during the initial site review but became evident later and that the pipe is submerged below water. Further investigation will occur prior to any construction to evaluate this.

Another question was raised as to if it can be proven that there is zero increased run-off as a result of not knowing where the pipe connects. Mr. Overton explained at previous hearings that the plans decrease the water shed run-off. The water shed to the drainage area has been reduced. No additional questions or comments were raised.

A question was raised in compliance with Section 5.2 – natural features. All natural features are shown on the plans. There is no impact to the existing green belt which is part of State land and is to the west of the property.

A questions was raised on Section 5.3 – flood plain management and any structures to be built within the 50 ft. water mark. Further back from the high water mark. No structures are planned to be built in this area.

A question was raised about the septic system. It has been designed and approved per health code requirements. The same is true for the storm water basin. It has been designed for detention and water quality management. An underdrain will installed to slowly drain out and promote dryness. Drainage calculations to support these findings have been submitted.

A question was raised about signs of existing erosion at the cul-de-sac. There is no existing erosion at the cul-de-sac.

PUBLIC COMMENTS AND QUESTIONS

Lynn Lee, 409 Mountain Road.

The potential for Cheshire is unlimited for future houses. The mountain has mystical qualities and should not be disturbed. It has a language all its own and belongs to the residents who live there. Do not wrongly touch the mountain and its creatures. If Cheshire touches the mountain, many problems will be faced on many levels. She asks the P&Z Commission members to think carefully (Applause from audience).

Peter Wilcox, 415 Mountain Road

Mr. Wilcox is an engineer and agrees with Ms. Lee's comments. If the project moves forward he encourages the addition of the catch basins on Cornwall Avenue. Six catch basins are proposed at Cornwall Avenue Ext. which will be tied into the Mountain Road storm water system. Any additional water that is added to current storm water systems is a violation of town ordinances. If the development goes forward including widening the road and cul-de-sac will increase water to the Mountain Road storm water system. For every inch of rain approximately 1,500 gallons fall on the property at 266 Mountain Road. For a six inch rain storm this amounts to 9,000 gallons of rain. Only when pressed did the applicant reply about this saying that it is "an insignificant amount of water". It is not an insignificant amount of water. With this information, the application needs to go back to the Inland Wetlands Commission for review. He does not believe that Inland Wetlands is aware of the amount of water that will be discharged in that area. Mr. Wilcox submitted documentation and will be emailing a spreadsheet with calculations. He also represented the resident at 266 Mountain Road who could not be at tonight's meeting.

Tracy Jewett, 920 Cornwall Avenue

Ms. Jewett expressed her concerns about the Clearview Farm Preserve.

From the minutes of the previous public hearing where a commission member asked if the water in the brooks outflowed its banks, Mr. Overton's response was that "there is no area of water jumping out of the channel." Ms. Jewett submitted photos that she had taken as evidence showing that the water jumps out of the channel. She gave a detailed explanation for each photo. She also expressed her concerns regarding safety relative to speed of traffic. She is the only resident on the street with school aged children. She referenced an accident that took place in March at the intersection of Cornwall Avenue and Mountain Road where her son takes the bus to high school. Her son would have been hit if the car had spun in the opposite direction. After reporting the incident to Cheshire Police moments after it happened, a new street sign was installed several days later. Her daughter attends Doolittle Elementary School and is designated as a walker. Ms. Jewett has never allowed her children to walk to school unattended. Her daughter has disabilities. There is no crosswalk or crossing guard. When asked the bus company if her daughter could take the bus to school, she was advised to petition for a seat for her daughter. The bus route will not allow her daughter to be dropped off on the corner of Cornwall Avenue. She will be dropped off at Homestead Place intersection where she would have to cross the road unsupervised. Many residents have expressed their concerns at past public hearings regarding traffic, speed and safety. If a child is hit by a car it is catastrophic no matter what the speed is. Safety must be made a priority with a traffic light installed on Mountain Road to control traffic and speeds. The issue of the dump must be addressed as it may be toxic and detrimental to health and environmental concerns. She understands that Inland Wetlands and RWA have signed off on this project, however, were they made aware of toxic materials. The area should be tested and cleaned prior to any activity. Many questions and concerns remain that have not been answered by the applicant. If a project is done, it

should be done right the first time. The current plan should not be approved as designed.
(Applause from audience)

Laurie L. Wilcox, 415 Mountain Road

The traffic speed data study done by Milone & MacBroom in March collected only two hours worth of data. Ms. Wilcox spoke with Lt. Fred Jortner of Cheshire Police Traffic Division, who said that a proper collection of data should be a minimum of 7 days – 24 hours a day. She is curious as to why a sub-standard speed study data was done. She has not received answers to questions about hardships in a letter sent to Mr. Voelker in March. What would be the recourse if hardships happen. She read the letter aloud highlighting regulations and the hardships that can result if not followed. She asked the P&Z to deny the application. (Applause from audience).

Amy Johnson, 208 Mountain Road

She contacted the top recommended botanist in Connecticut who is available to evaluate the proposed sites. She read a letter from him, Bill Moorhead, Consulting Field Botanist, 486 Torrington Road, Litchfield, CT about West Cheshire Ridge. West Cheshire Ridge is exceptionally rich in rare and uncommon plants including globally rare species. He recommends that site surveys be done by qualified experts in vascular plants, reptiles and amphibians. He has 27 years of experience conducting rare plant surveys in Connecticut and seldom has he come across new rare plant populations at West Cheshire Ridge.

Ms. Johnson read a letter on behalf of Brenda Nousiainen, 266 Mountain Road

The letter stated Ms. Nousiainen's concerns about the added water that will come her way with the development of Clearview Farms. The water will flow across the entire length of my property as it heads north toward Willow Brook. Where discussions have taken place about the runoff on the south end of the development, nothing has been said about the north end. She was informed that all water from Cornwall Ext. will come her way. Any additional water will impact her property. She asked the Commission to personally check her property before the giving permission for development to occur. Conversation was also referenced in comments by Mr. Wilcox, 215 Mountain Road. (Applause from audience)

Matthew Dell, 475 Mountain Road

Why isn't current available rainfall data being used to determine if the Drainage system is effective for a project of this magnitude. The data being used is outdated (1930 – 1950). Regulations state that drainage should not happen over septic systems near houses on the east side of the development. He handed out from Cheshire GIS system showing the current flood map. The blue indicates the proposed FEMA flood map and is encroaching Mountain Road, Beechwood Court near the cul-de-sac, and the 6 proposed parking spots. The red slashed area indicates the current FEMA flood map. A one percent annual chance of flooding in this area should not warrant the building of a road.

Mr. Dell made note of an email to Mr. Voelker stating that the applicant has come to an agreement with the owner of 475 Mountain Road. Mr. Dell has not signed an agreement but has received information from the applicant.

Gary Baylor, 741 Cornwall Avenue

Mr. Baylor wants to know why the dump was not disclosed. Will it have an effect on the area and environment. Should the area be tested. There are unanswered questions that need to be addressed.

Joan Smallwood, 469 Mountain Road

Ms. Smallwood asked for clarity regarding who is responsible for the maintenance of sidewalks.

Mr. Voelker said that the Homeowners Association will be responsible for sidewalk maintenance.

Ms. Smallwood said that there is no small green belt between the sidewalk and her property. She would be restricted from planting anything which seems to be an unnecessary restriction.

She would like to see that 3 mature trees near her home are preserved. The area that is behind her property for detention pond 10 would be clear cut. Is a wooded area.

At the dump area there are artificial mounds of dirt that may be redirecting water flow. This dirt should be examined and looked at for before any construction occurs.

It is noted that the detention pond will be dry. It will be below the seasonal ground water table. Ground water rises and stays elevated from December through May. Sum pumps have to run 24 hours a day to keep basements from flooding. It will not be a dry pond.

It is not known where the 15 inch water pipe under the road bed to Matt Dell's property is connected to. It is aligned with the swale, low level line that drains surface water on Mountain Road. Fill has been added to raise the ground level which went over the natural surface water drainage. It was graded to make it low level. When it gets to the road bed, it stops. Trap rock on her property sends surface water out to the 15 inch pipe.

Ms. Smallwood presented a diagram explaining that the slopes that exist toward the wetlands with arrows noted to mark run-off. Ground water becomes run-off to land downstream. This development will be served by public water. The entire development will be bringing in millions of gallons of public water per year. The net increase will affect the ground water that is already too high. It is not a zero net increase water situation.

She is disturbed that Inland Wetlands does not find issues with erosion, that there will be no increase in erosion and sedimentation. Significant erosion is already taking place by comparing topographical maps. Further contribution, i.e., construction of houses, will add to the erosion as will drainage systems.

The time is now to repair piping that is near life expectancy.

There is less than a .4 inch slope to date which results in improper drainage.

There is a new plan in place changing the angle of the slope. She does not think Inland Wetlands knows that the edge of the road will run over the pipe.

Ms. Smallwood is asking that the entire project be sent back to Inlands Wetlands because it was not aware of all facts at the time of approval.

Ms. Smallwood asked if after tonight will written material be accepted.

The Chairman said that it cannot when the public hearing closes.

Mr. Voelker commented that the Commission has 65 days to weigh testimony and decisions.

Ms. Smallwood also asked that the application be submitted to an independent organization before any decision is made to approve the project. The people feel threatened by it. She submitted a petition drawn signed by residents in the area.

Ron Walters, Regional Water Authority

Mr. Walters came to speak at tonight's hearing regarding a concern over the RWA letter stating that it was not made aware of the dump site. The RWA is not aware of a dump site on the property. State regulations are dependent on activity on the site. If made aware of a water quality issue it would go to the Zoning Enforcement Officer. The RWA is not aware of any water quality issues at that site.

Richard Johnson, 825 Cornwall Avenue

The fact that there may be toxic waste is the obligation of the Commission to the citizens of this community especially the children to make absolutely certain that the property is a clean public property.

David Schrumm, 369 Sir Walter Drive

Mr. Schrumm read from the draft of the current POCD Master Plan. It notes protection of natural resources including ridgeline protection especially at the western border; preservation of farmland, and protection along western parameter. In an R20 zone, the cul-de-sac requirement is 1,000 feet. One of the lots goes up against the dump. There is no reason for a gravel parking area at the new cul-de-sac. The Bens Historic Trail should not be deeded to the town. The Homeowner's Association should be responsible for it. The detention basins will not hold all of the water. Test pits have been referred to as the fill area. It is a dump and the Commission is dodging the issue. The Commission has to do something about it - ignore it or do something about it. This application should be amended significantly.

Tom Grimshaw, 470 Riverside Drive

There are questions that remain about the dump. The RWA was not told about the application before it went before the P&Z. The application should not go forward without being reviewed. The homeowners will be responsible for infrastructure off of Cornwall Avenue. The septic system is close to the detention basin. The application has more problems and should go back to Inland Wetlands before anything is done.

Mr. Overton referred to Ms. Jewett's testimony and pictures presented. He said that there is no flooding or erosion around the headwalls. There is no evidence of over topping of the brook out of the channel and running down the roadway. It is the slope that drains down to the roadway. When a roadway is cut into a hillside it will divert water.

Mr. Overton spoke of Mr. Dell's comments regarding use of current available rainfall data. This data is starting to be accepted. It is not the standard for the town so it was not used in the analysis. There is a new FEMA update in draft format. Once it is finalized it will be the standard used. The analysis and plans follow what was legally required in the application.

The septic system is a leaching field not a structure. The Chesprocott Health District has reviewed and approved the plans which are consistent with the health code and regulations.

Mr. Overton said that they have meet with Mr. Dell to discuss roadway improvements in front of his home and that there is no formal agreement in place.

Mr. Overton said that the sidewalk in front of Ms. Smallwood's home has a one foot town standard. A three foot green belt for snow storage is being proposed.

The detention pond is proposed to be dry. It has an underdrain in the bottom where gravity drains the water from the bottom of the pond. The pond will not be completely dry, but there will not be standing water in it.

The erosion in North Roaring Brook is a natural occurrence in streams whether there is development or not.

The roadway design matches in before filling the wetlands. It will not fill the wetlands on the south side because that is state property.

The ridgeline, referred to in the POCD, has been protected. It is well to the west and vertically hundreds of feet above the property. The ridgeline and green belt will not be affected.

The original plan for the cul-de-sac was 1,000 feet long per regulations serving three lots. Town staff desired to extend the roadway for better snow storage and to eliminate the shared access way. No additional lots are being added. The cul-de-sac was pushed back an additional 200 feet and a waiver was requested.

The Chairman asked if with 1,000 feet it will be the same number of lots.

Mr. Overton replied that no lots were gained by extending the road. The lots were not increased in size. Area was traded for the shared access.

Mr. Fazzone said that because of the snow amounts from winter one year ago, the Engineering Department suggested eliminating the rear lot access and extending the roadway for snow storage. It is basically the same length as an R40 zone.

Mr. Overton said that the gravel parking area was added for public access to the state open space and ridgeline. The right of way was expanded to the back property line.

Mr. Strollo said that on the map, R80 comes into the lot. Lot 16 is noted in an R80 zone. He cannot get past this notification.

Mr. Fazzone introduced motions for the Commission to review and mirrored the comments made by Mr. Overton. He referred to a motion regarding clear cutting of trees for the home sites which will require the applicant to replace the same number of trees. He said that the application meets regulations.

Mr. Voelker said that the Commission has the final say and that all materials presented will be reviewed.

The Chairman closed the public hearing.

Mr. Voelker read the Legal Notice for the continuation of the public hearing for the record for Zone Text Change Petition c/o Anthony J. Fazzone, Esq., Fazzone Ryan & Ricciuti, LLC.

4. Zone Text Change Petition	P.H. 04/25/16
<u>Fazzone Investments and Properties, LLC</u>	P.H. 05/09/16
21 Lots	MAD 07/13/16
Para. 40.a and add Para. 40.b	

Mr. Fazzone noted that the paragraph revisions state directly that there can be only one restaurant at one signalized intersection. This will eliminate distance restriction for restaurants in industrial zones. This amendment is in compliance with the 2002 POCD.

The Chairman closed the public hearing.

Mr. Voelker read the Legal Notice for the Special Permit Application of Cheshire Academy Inc. co/o Michael Joyce, P.E., Milone & MacBroom, Cheshire, CT.

<p>5. Special Permit Application <u>Cheshire Academy Inc.</u> 10 Main Street/Academy Road Reconstruction and relocation of Cheshire Academy's Facilities Building and Construction of 13 new Faculty Housing Units</p>	<p>P.H. 05/09/16 MAD 07/13/16</p>
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Mr. Voelker said that this hearing should remain open based on a letter from the Regional Water Authority stating that the portion of Cheshire Academy for this project is not located is not within the RWA public water supply watershed and acquirer areas.

Mr. Joyce said that a Special Permit is requested for construction of a new 11,900 maintenance facility building and the addition of 13 new faculty housing units on the campus. A fire destroyed the former maintenance building. Staff has no concerns regarding this application.

The Public Hearing was continued to May 23, 2016.

VI. ADJOURNMENT

Motion by Mr. Kardaras; seconded by Mr. Stollo. The meeting adjourned at 11:10 p.m.

Respectfully submitted,



Dawn Guite, Recording Secretary.

Respectfully submitted,



Earl J. Kurtz III, Secretary pro tem
 Cheshire Planning and Zoning Commission