

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, JUNE 13, 2016 AT 7:30 P.M. IN COUNCIL CHAMBERS, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

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

Alternates - Jon Fischer, James Jinks, Jeff Natale

Staff: William Voelker, Town Planner

I. CALL TO ORDER

Mr. 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

Secretary Veleber read the call of public hearing for all the applications.

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| 1. Special Permit Application | PH 5/9/16 |
| <u>Cheshire Academy Inc.</u> | PH 5/23/16 |
| 10 Main Street/Academy Road | PH 6/13/16 |
| Reconstruction and relocation of Cheshire | MAD 8/17/16 |
| Academy's Facilities Building and Construction | |
| Of 13 new Faculty Housing Units. | |

Michael Joyce, P.E. Milone and MacBroom, represented the applicant, Cheshire Academy. Mr. Joyce explained the applicant wants to expand to the eastern portion of the property, and pointed out this area on the map of the campus. This project follows up on last year's fire in the Facilities Building which was a total loss and demolished. The utilities staff is now working out of a storage trailer and garage pending construction of the new utilities building to the east portion of the campus. Mr. Joyce advised that the applicant cannot rebuild in the former location or add on a building due to some limitations in this location. Currently, the Academy pays \$90,000 in rents for faculty housing, and this project includes the utilities building and 13 faculty housing units. The utilities building will be 1,900 sq. ft. On the graphic, Mr. Joyce pointed out RT 68 and 70, the baseball fields, track, and noted the 150 foot easement across the property. The application has received Inland Wetlands & Watercourses (IWW) approval.

Mr. Joyce discussed minor changes to the original plans which include improvements to the drainage system on RT 68 from DOT, and proposed extension of the water main on RT 68. This is higher cost to the Academy which cannot support this cost. There is a water main at the end of Woodbury Court, and the Academy is working right now to finalize construction of the water main on the campus up to the site. WPCA granted feasibility approval, and there is approval from abutting property owners for the easement access. Utilities are off RT 68 with existing utility poles and gas main.

Architectural drawings for the buildings show the 13 housing units, some are duplex apartments and others single family units.

Fire Department comments were received last week, and the applicant has no opposition to these comments. The Fire Department wanted pull off parking spaces within the residential development for CFD access. The access road will be 24 feet wide (versus 30 feet wide); it will be an impervious surface; and there will be additional parking for residential unit visitors.

The total project is about 7 acres, and it will be a phased-in project. The net import will be about 2,300 cubic yards of fill; detention basins were designed; there is a decrease in runoff; there will be infiltration basins.

Mr. Joyce reiterated that the "housing" is for faculty and not students. He noted that part of Woodbury Court has two private homes. Neighbors were invited to meet with the applicant; they were in favor of the Academy maintaining the driveway, relocation of the dumpsters; neighbors will use the same driveway; there will be a green buffer area. The access road is east of RT 68, past the Methodist Church site, on the left hand side. Road striping will be provided. The Academy has access rights with a 50 foot easement on the property; there will be an adjustment to one of the easement lights with a slight modification. The utilities building will be 1,400 feet in from the road, and on RT 68 only the top of the building will be visible.

Mr. Voelker read CFD comments dated 6/9/16 into the record.

Mr. Joyce informed the Commission that plans and documents have been submitted to the State.

THE PUBLIC HEARING WAS CLOSED.

(Commissioner Veleber was recused from application #2; Mr. Natale was the alternate member)

2. Special Permit Application
BFAM Investments LLC
129 Mountain Brook Circle
Rear Lot Access Way

PH 5/23/16
PH 6/13/16
MAD 8/17/16

Attorney Anthony Elia represented the applicant, and at the last public hearing he presented the four main areas for the application -- history of the property, reason for the application, reason for submission of the application under Reservation of Rights, and reasons why the application should be granted regardless of the difference of opinion on the interpretation of the zoning regulations.

Mr. Elia stated that a driveway one way up and down is a possibility, and if there was a change with the driveway or it was altered, the applicant would come back to the Commission.

The Cheshire Fire Department (CFD) comments were cited as a concern by Mr. Strollo, particularly access in the winter time. He asked about the applicant being willing to have a fire suppression system in the house, as there are safety concerns with the steep driveway.

Attorney Elia responded, stating the reason being the location of the house, where it sits, in close proximity to the cul de sac. If the applicant was required to have a fire suppression system, this condition would be met. The applicant feels it may not be necessary with the proximity of the house close to the existing cul de sac.

With the incline on the driveway and need for fire apparatus access, Mr. Strollo said this is his concern.

The Commission was told by Mr. Voelker that it cannot impose this condition. It is hoped the applicant would put a sprinkler system in the house. CFD does not agree with the applicant and this was made part of the record. He noted the applicant is looking for approval of the access, not the lot, and the Commission hoped for a fire suppression system in the house.

Following a brief discussion with his client, Attorney Elia informed the Commission that the applicant agrees to a voluntary fire suppression system in the house.

Mr. Todisco said this is very helpful, but he questioned whether this application should now go back to CFD and the Fire Chief with this additional aspect of the application.

Mr. Voelker has spoken with Chief Casner, and the steep driveway is a problem, and this cannot be overcome. The fire suppression system is satisfactory; it allows people to escape from the building; and the CFD has more time to get into the house in the event of a fire. Mr. Voelker will work with the applicant on location of the system.

An excerpt from the CFD comments was read into the record by Mr. Todisco. He asked if the comment is no longer applicable if there is a fire suppression system in the home.

Stating he could not speak for the Fire Chief, Mr. Voelker said he expects they will be satisfied with the fire suppression system in the home.

Mr. Todisco asked about CFD wanting to know about the system in the home before the Commission acts on the application. He has no problem approving this application absent CFD concerns about public safety, which is evident in paragraph #2 of the CFD comments. Mr. Todisco cannot vote in favor of the waiver, because the waiver regulation states it must not result in danger to public safety. He believes it is reasonable to have the Fire Chief review the application again.

With the application going back to CFD for further review and consideration, Mr. Voelker pointed out a calendar problem, with the application going into July, with the public hearing being continued.

Attorney Elia stated that the last time the approval was granted on April 25, 1994, there was no maximum 10% grade requirement, and one month later it was imposed. He is requesting re-approval of the 1994 application, as the application did not fall subject to the new requirements. Mr. Elia is doing this as the better way to approach the matter rather than protracted litigation. He said the CFD will, probably, take the same position that this is a dangerous situation.

Mr. Todisco commented on the change coming one month after the last approval in 1994 which is the basis for the Reservation of Rights...that none of this is necessary at all. The applicant states that the special permit expiring after 5 years does not matter because this is a subdivision approval, that does not have a 5 year limit. He said that Mr. Voelker has advised the Commission that the 5 year requirement does apply here and this is what the PZC is dealing with here. Mr. Todisco does not believe the Commission, in reading the materials, would overrule that...and this is not the forum for making a legal argument...given that the Commission has been advised by staff that the 5 year requirement does apply.

It was stated by Attorney Elia that this is the reason why the applicant is proceeding under Reservation of Rights. The hearing can be continued for 2 weeks, and there could be the same negative responses from CFD.

If there are the same answers from CFD, Mr. Todisco said he would deny the application. If the CFD Chief comes back and states they can live with the suppression system in the house, the application could be approved. Mr. Todisco is not ready to support the application tonight.

Mr. Gaudio stated the CFD is considering this a life safety situation. There is one home there now at the end of the driveway, with the applicant wanting approval for a specific house. We must put lots of stock in what the Fire Chief is saying. Mr. Gaudio believes the fire suppression system will help, but he waits to hear from the Fire Department again. Whether this is a minor change is an unknown. He visited the site and there is a serious hole going up there.

Stating there was approval in 1994, Attorney Elia said he client purchased the property and cannot get a building permit. He obtained plans from the prior owner in 2008. This

lot expired as a building lot in 1999, and he questions whether other property owners went through the same process. They would not have had septic system and leeching fields approved with planning on building on the property.

Chairman Kurtz commented on the concerns of the Commissioners. The application will be put on a special meeting agenda following CFD and Fire Chief review, with the fire suppression system proposed for the new house. He noted there must be a super majority for approval of the application.

THE PUBLIC HEARING WAS CONTINUED TO JUNE 27, 2016.

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| 3. Earth Removal, Fill or Regrading
<u>Nosal Properties of Cheshire LLC</u>
Lot 3, Fieldstone Court | PH 5/23/16
PH 6/13/16
MAD 8/17/16 |
| 4. Site Plan Application
<u>Nosal Properties of Cheshire LLC</u>
Lot 3 Fieldstone Court
Construction of industrial warehouse with
Parking and utilities. | MAD 7/12/16 |

Darin Overton, P.E. Milone and MacBroom represented the applicant. Mr. Overton stated there was a similar warehouse application in 1999, but construction never followed.

The property has changed hands, and the lot is at the end of the cul de sac. Fieldstone Court connects with Route 10, and the proposed development is similar to the one in 1999, with two uses proposed. The site is 6.71 acres, in an I-2 zone, surrounded by I-2 zones, and in the Apple Valley Subdivision. The lower part is gently sloping; will be filled and regraded; to the east slopes are about 20% to the property line. This is old farm property. There are some wetlands on the site (pink color). The application received IWW approval on June 7th. The property drains to the west, Ten Mile River. The east part is in the aquifer protection zone; RWA has received notification.

The development will be a 26,000 sq.ft. industrial warehouse; the current owner will occupy part of the site; the tenant will be Shred-It. There is parking around the front and sides; Shred-It will utilize office and warehouse spaced; the building is served by public water and sanitary sewers; and received WPCA feasibility approval on April 27th. The east side of the site is the proposed storage area for Nosal. There is provision of a storm water management basin, modified since 1999, based on current design standards; it provides water quality volume; and will drain dry.

IWW Approval was received, and feedback includes some phasing as part of the plan. The southwest corner has wetlands, a habitat for wildlife breeding. This area will be sealed off from construction, until July when the wildlife leaves, and the rest of the

project will commence. There will be relocation of some of the habitat space and increase in its size.

Mr. Overton stated that in 1999 there was approval for infill of the wetland area, and since then vegetation closed in and the habitat increased over time. It has been checked out and found to be growing. There will be preservation of the habitat, and a consultant has been hired for this purpose. The subject property is to the northeast of Lane Construction.

Mr. Voelker pointed out this property is in an I-2 zone, 6.21 acres, 56,200 sq. ft. building, is consistent with the zoning regulations, and modifications to the plan are based on CFD and RWA comments.

Mr. Voelker read Cheshire Fire Department comments dated 5/13/16 into the record.

There are gravel driveways in the original plans, and Mr. Voelker said the current plans have pavement, and there will be relocation of the vernal pool.

Mr. Overton explained due to leaking concerns, trucks will park in the back; there will be paved parking surfaces; and should there be leaks they can be noticed and take care of. The applicant is using the majority of material on the site; there will be some rock excavation; and a small quantity of excess top soil will be trucked off site.

The issue of the diamond shape in the middle of the left hand corner was questioned by Mr. Veleber.

In response, Mr. Overton explained this is a hole dug in the ground, left there from the 1980's. It is below the water table and away from the egg masses that were found and identified for the habitat. A consultant was hired, plans changed, and a new vernal pool habitat created. There is a second pool area in the wetlands which will be preserved.

THE PUBLIC HEARING WAS CLOSED.

5. Special Permit Application
420 South Main Street Condominium Assn.
420 South Main Street

PH 6/13/16
MAD 8/17/16

Secretary Veleber read a letter from Attorney Kevin Hecht, dated 6/13/16, into the record, which requested this public hearing be opened and continued to July 10, 2016.

VI. ADJOURNMENT

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

MOVED to adjourn the public hearing at 8:25 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk