

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, JANUARY 23, 2017 AT 7:30 P.M. IN COUNCIL CHAMBERS, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Earl J. Kurtz III, Chairman; Sean Stollo, Vice Chairman; David Veleber, Secretary.
Members: S. Woody Dawson, Vincent Lentini, Gil Linder, John Kardaras, Louis Todisco.
Alternates - Jon Fischer, Jim Jinks
Absent: Edward Gaudio and Jeff Natale (Alternate)
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

Secretary Veleber read the call of hearing for each application.

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| 1. Special Permit Application | PH 11/14/16 |
| <u>Charles Nicholls</u> | PH 1/23/17 |
| 1572 South Main Street | MAD 3/29/17 |
| Parking improvement and addition of new | |
| Entry element | |
| (TABLED UNTIL FEBRUARY 15, 2017 AT REQUEST OF THE | |
| APPLICANT) | |

Commissioner Todisco was recused from applications #2 and #3.

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| 2. Waiver Request | PH 12/12/16 |
| <u>Whitney Watts</u> | PH 1/9/17 |
| Tamarack Road | PH 1/23/17 |
| Requesting waiver of Section 5.5.1 | MAD 3/29/17 |
| The Subdivision Regulations | |
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| 3. Resubdivision Application | PH 12/12/16 |
| <u>Whitney Watts</u> | PH 1/9/17 |
| Tamarack Road | PH 1/23/17 |
| To modify the Town R.O.W. | MAD 3/29/17 |

Ryan McEvoy, P.E. Milone and MacBroom, represented the applicant Whitney Watts. The last public hearing had review of submitted material by the applicant and graphics of the length of the Watts property from his house to Wallingford Road. There was discussion about tree farming activities on the Watts property, making use of the existing Wallingford Road driveway. The applicant has been told by staff that any type of construction vehicles associated with his business are not permitted on the lot regardless of the success of this application. There is a recommendation from the Fire Marshal and Fire Chief with regard to extension of this driveway to Tamarack Road resulting in improved safety and access to the existing parcel. The public hearing was left open for additional Commission members to attend as the waiver request does require 3/4th majority to act on the application.

PUBLIC COMMENTS AND QUESTIONS

Diane Colechia, 647 Tamarack Road resident of 20 years, read a prepared statement into the record. In this statement, she says the applicant has not been forthright with regard to his actions and use of the property. The neighbors informed the Commission about the tree farming, construction vehicles on the property, employees parking their cars on the property and driving out in construction vehicles. Ms. Colechia commented on the Watts family being experienced land developers who knew what they were purchasing with the Wallingford Road driveway. They received a certificate of occupancy for their house and another c/o for the in-law apartment. This is not a safety issue but a convenience for one family that will affect the neighbors and property values. Ms. Colechia requested the Commissioners not approve the application.

Ms. Colechia read a written statement from Sarah Buell, 634 Tamarack Road into the record...in opposition to the Watts application. The statement was submitted and made part of the record.

Eric Ehrenfels, 625 Tamarack Road, stated that the waiver to Section 5.6.1 should be denied, and he read a statement into the record supporting his position on denial. Mr. Ehrenfels stated the waiver request serves at the convenience of a resident, is not a hardship or need in any way, and asked the Commission to deny the application. A copy of the statement was submitted and made part of the record.

A question was asked about a homeowners' association for the development by Mr. Linder. He said he visited the area on Stuart Drive, noticed a grass strip maintained along this drive, and asked if an HOA maintains this strip of land.

Mr. Ehrenfels replied there is no HOA for the development. Two property owners, one on Stuart and one on Coleman maintain this strip of grass area. If there had been an HOA, he said some parts of this hearing would not be happening.

Mr. McEvoy told the Commissioners that the location of the proposed driveway is located on Town property that abuts the Watts land, and it is not on an easement or neighbor's property. There is a 50 foot wide strip abutting the Watts property, and this is where the driveway is proposed. The Fire Chief and Fire Department are satisfied

with the turning movement, and no modifications are required for a large emergency vehicle to enter the Watts property. Regarding an HOA, Mr. McEvoy said this is a Town roadway network, not a private roadway network. The subdivision for the creation of this lot long preceded the Heritage Hills Development. At the time of the subdivision for Platts Knoll there was no mention of access to what is now the Watts property....it did include access to the end. This is why the applicant is now seeking a waiver of the subdivision regulations and Resubdivision application.

Regarding Mr. Moore's property, Mr. McEvoy explained that he has sole access from Wallingford Road; his access rights do not include any easement out to Tamarack through the Watts property. If Mr. Moore wished to pursue access on Tamarack Road he would need access rights across the Watts property to Tamarack, and apply to the PZC for a waiver to do so. This is not part of Moore's current property rights.

With regard to comments that this is not a safety issue, Mr. McEvoy stated his disagreement. He cited the CFD letter which is part of the record, and read the statement into the record. It is clear that CFD believes if the waiver is granted there is improvement of CFD's ability to serve the occupants.

Mr. McEvoy stated that the Apex Development application has nothing to do with the subject applications for a waiver and Resubdivision.

The tree farming activity was discussed by Mr. McEvoy who said these trees are about 1 foot tall. Mr. Watts is committed to any activity associated with this farm going out to Wallingford Road, not Tamarack.

Mr. Veleber asked about the neighbor having easement rights to the Watts property to get to Tamarack, and if he would need his own separate waiver.

In response, Mr. McEvoy stated "yes"...this is a separate waiver and no one has rights over the Watts property to Tamarack Road.

Diane Colechia asked about the two certificates of occupancy granted and if safety issues are not taken into consideration when issuing a c/o.

Mr. Voelker advised the Building Official authorizes certificates of occupancy, and they are related to the structure, could be related to construction, and driveways must be paved. The c/o does not take into consideration the same things as a subdivision regulation. Building Official issues the c/o and the safety consideration is to the extent that the roadway is passable. The construction must meet State building codes for mechanical, electrical, drainage, passable driveway etc.

Without everything in place, Mr. Dawson said the loophole is giving a 90% c/o.

Mr. McEvoy talked about the suggestion to convert this property to a Tamarack Road address as suggested by CFD which thought this would clarify the ability for emergency services. The applicant has no objection to this address change.

The issue of the easement Watts has over the Moore property and in front of the Moore property was raised by Mr. Linder. He asked who maintains this easement.

This is over the property in front of the Moore property; Moore has a 50 foot access way; and Mr. McEvoy said a portion of the Moore property is located on the Watts land across a 50 foot easement. They have a combined easement out to Wallingford Road. Mr. Watts maintains this easement. Part of the application is to maintain access to Wallingford Road and Mr. Watts has the means and equipment to maintain the easement. It is not part of an agreement or deed.

If Mr. Watts does not maintain this easement, Mr. Linder asked if Mr. Moore would have to maintain it.

Whitney Watts, 825 Wallingford Road, informed the Commission that Mr. Moore maintained this easement before he was there. Mr. Watts said he would not abandon maintenance of this section of the driveway.

Stating he has doubt in his mind, Mr. Linder said he would be more comfortable accessing Tamarack than Wallingford Road, and in the future maintenance could go to Mr. Moore.

As part of the application, Mr. McEvoy said part of the benefit is two accesses to two streets. Mr. Watt will maintain the Wallingford Road access because children get the school bus at this location.

It was stated by Mr. Dawson that nothing is forever unless it is in writing and on a deed. He asked about Watts selling his house and land, and who would then maintain the access way...would it be part of the deed.

According to Mr. McEvoy the language of the approval could be modified and changes could be included for maintenance of the Wallingford Road access.

Mr. Voelker said the applicant can offer this, but the Commission cannot require it.

The applicant is willing to committed to continuing maintenance of the access to Wallingford Road, and Mr. McEvoy said the benefit to the applicant is the maximum number of lots on the cul de sac. The purpose of the cul de sac regulation is road closure, blockage of the road...the number of lots with sole access is minimal. This is the risk assessment so too many lots are not cut off from services. The applicant will keep the Wallingford access, so in the event there is a blockage on Tamarack, south of Stuart Drive, and need to get to the Watts house the existing driveway off Wallingford Road can still be used.

Town Planner Voelker stated CFD reviewed an application that included access from both places. If the property were sold, maintenance of the access way would have to go with the property. The map of the subdivision must be recorded on the land records with everything noted on the records. There is a chain of title to include everything when the home is purchased.

VI. ADJOURNMENT

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

MOVED to adjourn the public hearing at 8:07 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk