

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, SEPTEMBER 23, 2019, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Sean Stollo, Vice Chairman; Jeff Natale, Secretary

Members: Matthew Bowman, Robert Brucato, S. Woody Dawson, John Kardaras, Gil Linder, Louis Todisco.

Alternates: Robert Anderson, Tom Selmont and Donald Walsh

Absent: Earl J. Kurtz, III

Staff: William Voelker, Town Planner

Guest: David Veleber, Town Council Liaison

I. CALL TO ORDER

Chairman Stollo called the public hearing to order at 7:31 p.m.

Chairman Stollo read the emergency public service notice.

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

Commissioner Bowman recused himself from application #1.

1. Special Permit Application

Ralph Bergamo

266 Sandbank Road

Martial Science Training

PH 9/23/19

MAD 11/27/19

Ralph Bergamo, applicant, stated his business has been in Cheshire since 1980, and he wants to relocate to 266 Sandbank Road, a better location for his business.

Mr. Todisco asked about exterior changes to the building, and if the applicant is only making interior changes.

With regard to interior and exterior changes to the building, Mr. Bergamo explained there are no exterior changes, and he will be painting and upgrading the interior of the building. There will be a 600 S.F. waiting and office area.

Town Planner Voelker read comments from the Cheshire Fire Department dated 9/4/19 into the record.

The Commission was told by Mr. Bergamo that he is moving his entire operation to the new location, 266 Sandbank Road, and the lock box required by CFD has already been installed at the site.

There were no public comments or questions. Chairman Strollo closed the public hearing.

Commissioner Strollo recused himself from application #2.

2. Special Permit Application
Milan LLC
120 Commerce Court
Contractor's storage yard for landscaping
Materials and equipment.

PH 9/23/19
MAD 11/27/19

Michael Poinelli, 766 North Mountain Road, Newington CT, applicant, presented his application to the Commission.

Mr. Poinelli is purchasing two (2) properties on Commerce Court, an office building lot and rear storage area, which will be used for the landscaping contracting company. On the plans he pointed out the two locations. The storage bins will hold business materials (i.e. mulch, stone, top soil). In the rear there will be an area for vehicles, with equipment located closer to the street. Mr. Poinelli explained there was a road into the rear area, which is now overgrown, and he will clear this lot for rear yard access. Flowering trees will be added on both sides of the road, creating privacy with an evergreen screen of Arbor Vides; there are slats for fencing; per the Engineering Dept. comments there will be screening and drainage improvements.

Drainage - Milone & MacBroom put together the drainage plan which will improve the drainage system; there will be a separator to collect any debris from going into the sewer system. On the plans, the orange line shows the new drainage for the property, and dry well to collect any water coming in from the street.

Mr. Poinelli has been in business since 1975, and informed the Commission his company has a very good reputation in Newington CT. He takes great pride in his property, has big future plans for the front of the subject property, and believes the building will be beautiful.

Town Planner Voelker read comments from the Engineering Department into the record.

Questions were posed from Commissioner Brucato, Linder and Walsh about this being a retail or business use, on-site retail sales, the road being paved on his property, and trucks going in and out of the site from others or belonging to the company owner. Mr. Poinelli stated his landscaping business is “business to business”, and there is no retail business. The road was covered in top soil and will be paved. The company owns 12 trucks, and the only vehicles going in and out will be these trucks, which will be registered in Cheshire. There is no retail activity on site.

Mr. Poinelli stated his company has been involved in the I-84 project and does wet lands restoration.

The issue of the legality of the zoning was raised by Mr. Anderson.

Town Planner Voelker said this is an I-1 zone, and no retail is allowed. The prior owner never got the special permits needed for establishment of the use on the property. With the special approval permit, Town staff gives reassurance that the property owner has legal use of the property, i.e. for a business loan. A special permit was never granted for a contractor storage on the site, and the approval cleans all that up for this applicant. The former use was never legally established, and the approval eliminates all doubts about the subject property.

It was noted by Mr. Todisco that this is not a change in use, but the applicant getting the property legal approval for use of the property.

There were no public comments or questions. Chairman Strollo closed the public hearing.

**3. Special Permit Application
Brodach Builders Inc.
5 Copper Valley Court
Rear Lot Access**

**PH 9/23/19
MAD 11/27/19**

**4. Subdivision Application
Brodach Builders Inc.
Copper Valley Court
4-lots**

**PH 9/23/19
MAD 11/27/19**

Attorney Anthony Fazzone and Ryan McEvoy, P.E. Milone & MacBroom LLC, represented the applicant, Jay Brodach, Brodach Builders Inc. Mr. Brodach was also present.

Town Planner Voelker read the following comments into the record:

Cheshire Fire Department dated 9/19/19; Cheshire Engineering Department dated 9/6/19; and letter from John Yacavone, 15 Copper Valley Court, dated 9/18/19.

Attorney Fazzone presented the application for the rear lot subdivision. The applicant recognizes that the regulations, while indicating public roads are preferred over rear lot access ways, submits that the regulations recognize there are situations where rear lots may be approved. He said this is exhibited by the fact there are a number of rear lot subdivisions in Cheshire.

According to Mr. Fazzone, a lot of his discussion about Section 5 of the regulations deals with the layout of the site, engineering study and aerial map.

Mr. McEvoy displayed an aerial map of the site, and he walked through the existing conditions of the property and subdivision layout.

Copper Valley Tennis Club is a 19 acre site; it is bordered on the south and east by Copper Valley Court, Wolf Hill Court on the south, Braemar Drive to the west...single family residential R-40 lots...Honey Pot Brook to the north and west. There are industrial zoned, vacant, industrial properties across Honey Pot Brook. Until recently, the subject property was a swim and tennis club (w/clubhouse); there are nine (9) tennis courts and a few pickle courts; parking was located near Copper Valley Court on the eastern portion of the site; there is ½ acre paved parking adjacent to the residential properties on Copper Valley Court, and gravel parking in the vicinity of the tennis courts.

Topographically, the property is defined by a level flat plateau as you enter from Copper Valley Court; elevation is 200 feet; there is a change in topography going back towards the pool and clubhouse area, 25 to 30 feet. Pool area elevation is 130 feet; there is a drop to Honey Pot Brook; and sanitary sewer interceptor at 125 feet.

Mr. McEvoy stated the applicant is looking to create a three (3) residential lot subdivision on the northern portion of the property, served by a rear lot access way. The tennis courts and gravel parking area will remain. As part of the recently approved zoning regulations, the applicant is providing screening from the proposed development to the residential lots, to the parking lot for the tennis club. A privacy fence will include Arbor Vides placed along the rear lot access way, which should provide adequate screening.

The three proposed lots, 1/2/3 west to east are increasing in size as you go to the rear of the property., Lot #1 – 40,000 S.F. (asphalt parking area); lot #2 – 45,000 S.F. (playground area); lot #3 – is three (3) acres, with the house in the pool and clubhouse vicinity.

On the map, Mr. McEvoy pointed out the Yacavone house. He informed the Commission that he and Mr. Brodach met with Mr. and Mrs. Yacavone to discuss their concerns as noted in their letter. There is agreement with their findings and history of the property, that the parking lot (lot #1) does drain to the Yacavone lot. The intent is to remove that parking area and replace with landscaping. As part of the development there is elimination of one-half acre of impervious surface. Mr. McEvoy stated that by development of the subject property and regrading, there will be significant benefit to the Yacavone property and other neighbors.

Each proposed lot will have rain gardens; there will be positive drainage around the back side of lot #2 and to the west and north, along lot #3 with direct runoff to the brook; there will be very limited areas along the subdivision that will drain towards Copper Valley Court properties; some woods will be left in place. Anything that currently travels to the north, with exception of a small area of woods and impervious surfaces, will be directed from Copper Valley Court.

Rear Lot Access Way – will be 300 feet long; lots 1, 2 and 3 will take access off this access way; driveways for #2 and #3 will come off the turnaround...the bulb section.

Section 5.5 - requires a rear lot access way to be constructed when there is more than one driveway coming off of it. With two driveways combined into one, that is when construction of the rear lot access way can provide a 15 foot wide paved driveway, 25 foot radius bulb along with gravel shoulders. This is standard under the regulation requirements for layout. The regulations require the driveway off the turn around, town access way, to be no longer than 350 feet long, and 10% grade. Lot #3 is the longest driveway; it is 340 feet long; and is at 9% grade. Lot #2 is shorter with a pitch of 9%. Current grades change between parking areas; the club house and pool areas have a 15%+ grade, a very steep access. The applicant is proposing a fair amount of re-grading to lessen the slope to conform with the subdivision regulations.

Access for the Lots - The subdivision regulations prefer the rear most lot own the access way; the proposed access way is located across lots #1 and #2; there must be minimum frontage of 50 feet which is provided on the southern side of the turn on Copper Valley Court. There is provision of a separate driveway access to allow for vehicles for the club to get to the gravel parking area, and there must be provision of the minimum lot width across lot #1, which is 220 in width from the sideline to the north. Placing the common driveway across lot #1 is necessary to provide frontage to the club.

SNET Easement – this easement is located on poles just off the common property lines between the club and the three lots. Putting the property further to the west would result in some of the lots being encumbered by the existing easement.

These are the reasons for the rear lot access way going across #1 and #2. The grade of the rear lot access way is roughly flat, at 2% to 3% in grade. The termination of the rear lot access way is in the location that is furthest from lot #3 before descending down the slope towards lot #3. If the rear lot access way was continued further back towards lot #3 there would be construction of a larger driveway under steeper grading than allowed under the regulations.

Emergency and Fire Services Access – the applicant's layout conforms with the regulations in terms of length, grade of driveways, and construction of the common driveway. There is a fire hydrant located just off the proposed driveway, and the furthest from a house is 640 feet.

Engineering Dept. Comments – the applicant has no exceptions to these comments. The applicant agrees with Engineering staff that if the application is approved, the details about which sidewalk and curb portions are replaced will be done with fine details.

WPCA granted feasibility approval of the application.

IWW determined that a permit is not needed because there is no activity in proximity to wetlands or watercourses.

Bathrooms – Mr. Strollo asked about bathrooms being eliminated from the club and there being an out building for people using the club.

There is a small pro-shop with bathrooms, and Mr. McEvoy said it is hooked up to the sewer system. Final approval from the WPCA will require an easement of the sewer line to the club. The pool and clubhouse areas are closed to the public, and the pro-shop male and female bathroom facilities are adequate.

Mr. Walsh has concerns about future development, and what happens. He asked about lot #4 and potential future development, the reason for not using a public road, having a private driveway now, and change in the access.

Town Planner Voelker said they are choosing a rear lot access way rather than a public road, and the regulations are specific in this matter.

According to Mr. McEvoy the regulations state “future development” and the tennis club plans to remain into the future. There was a look at developing the entirety of the land. The area back towards the river is very steep. Regarding a public road, Mr. McEvoy said this is not desirable by the Public Works Department for maintenance, and would require a cul de sac going into the club property. Lot #3 would be longer; the cul de sac would be in a different location than it is now; and the fire department wants a turn around with the lots themselves. The rear lot access way is the maximum for length and grade; a cul de sac would not meet maximums; it would be longer at 350 feet to get to the back lot; and a cul de sac would not support future development of the club.

With regard to the comment about the Public Works Department, Mr. Voelker reported there has been no discussion with PW staff, and it was never stated a three lot cul de sac was wanted.

The potential for a future subdivision was raised by Mr. Linder, who noted the tennis court land drops off. He asked how many additional lots could be developed by the club and their location.

Mr. McEvoy said there is no hypothetical plan for future development.

Mr. Linder wants to understand why there is a driveway and no cul de sac, and said the regulations refer to future road, and this is all relevant.

In response, Mr. Voelker stated this is asking for evidence on an application not submitted to the Commission.

With regard to the number of lots allowed on an access road, Mr. Voelker said in an R-40 zone it would be 16 lots.

Mr. Bowman pointed out there are 11 lots in the original subdivision; three (3) more lots are proposed; and that leaves two (2) lots. If the Commission starts blessing this, there will be five (5) more lots in there, with the regulation stating maximum of 16 lots. He said the Commission must stick with the subject subdivision.

The difference in elevation between the Yacavone property and where the parking lot will be taken out was raised by Mr. Natale.

Mr. McEvoy said it is about 3 to 4 feet lower than the existing parking lot.

Mr. Bowman said the PW Department does not want to maintain these small cul de sac areas, and they become a town problem rather than resident problem.

Mr. McEvoy said there are 11 existing lots on Copper Valley Court; the club is the 12th property; and the applicant proposes three (3) new lots...a total of 15 lots.

The length of the rear lot driveway being longer than 350 feet was questioned by Mr. Brucato. He also asked about the town's easement to put snow on the subject property.

Mr. McEvoy clarified it is less than 350 feet; and it must meet the 350 foot maximum and 10% grade in the regulations. When the club was developed there was an easement for the town to place accumulated snow on the property, and this is still in effect.

It was stated by Mr. Todisco that there is regulation language to deal with...#1 is definitions of "practical and desirable"; and #2 is the Commission determining no logical or feasible way for a public road and rear lots should be avoided in all subdivisions where possible. There is nothing stated about Public Works. These are issues and language of the regulations to be addressed.

Regarding the trees cited in the Yacavone letter, Mr. Walsh asked about what is being done about them.

In the meeting with Mr. and Mrs. Yacavone, the Commission was told by Mr. McEvoy that the applicant would identify the lot line with stakes. The club property would be identified; and there is a wooded area between these properties.

Mr. Natale asked about the turn around, the driveway for lot #3 being under 350 feet maximum, and placing the turn around in the most advantageous place to meet the regulations. He noted the shared driveway and the three houses would start at Copper Valley Court.

PUBLIC COMMENTS AND QUESTIONS

Susan Persio, 55 Copper Valley Court, said her house is the last house on the cul de sac, and she has concerns about drainage and additional discharge affecting her house. To the present time, she has never been flooded. She asked about the provisions of the water drainage in the back part of the area into the brook and not her basement.

Mr. Bowman said the basement is beyond the 100 year flood plain.

Gillian Kuszewski, 35 Copper Valley Court, owns the last house on the left, and talked about the wetlands and impact on the wild life and the woods. Drainage is also a concern, and she noted the water gets very high...she does not want her yard and landscaping flooded and destroyed. There are also concerns about construction activity

and noise levels. Ms. Kuszewski asked about the three lot subdivision being in the back of the property.

Mr. Strollo said the back lot will not be subdivided.

Mr. Plankey, 35 Copper Valley Court, has looked at the application in totality. He said the tennis club will be insolvent in a few years, and look for development of its parcel of land. He is not certain a cul de sac with a common driveway will be appealing and blend in with other roads in the area. He would rather see the entire site developed at once and done properly, without forcing three homes in the narrow property. As a former member of the club he is aware of their financial situation. Mr. Plankey said they will sell the subject property to satisfy current obligations, and then not have enough funds to support the club into the future.

Attorney Fazzone stated one issue is the remaining land, and a public road would not be foreseen in the present or in the future. He said the club has made it clear that what is presented is the maximum amount of land to be given up. A cul de sac would have to extend into the club property to maintain a three lot subdivision.

Rick Roberts, 528 Buckland Drive, is a 20 year member of the Copper Valley Club. He read a letter from the Club into the record. Mr. Roberts informed the Commission that the club is breaking even over the last few years; the pool was draining the club's resources; the tennis club is strong; the new Board of Directors paid off the debt with member loans of \$60,000; and there is money to infuse into the club at this time. The current tennis program is vibrant; the club has a good youth program; the land will not be subdivided; and the club wants to stay in existence as a tennis club.

Mr. Roberts reported that the club does not want a public road, and. has agreed on the plans with a private road. He also stated that future development of lot #4 will not happen. The club trusts Mr. Brodach will have nice homes in the subdivision.

The issue of bathrooms for the club and possible expansion of these facilities was raised by Mr. Strollo.

According to Mr. Roberts there are adequate bathroom facilities, and there is a shack to store tennis club equipment. It is possible expansion would be for a bar, television and showers in the future. On a typical day of tennis, he noted there are 5 to 8 cars on the site; the parking lot has capacity for 23 cars; and there are no plans for expansion of the current eight (8) tennis courts. There have been no tournaments at the club for the last two years, and none are planned at this time. The Board wants to enhance the property with landscaping, repair of fencing, and make the club a state wide tennis program with increased membership.

In response to a question from Mr. Todisco about the location of the tennis courts, Mr. Roberts said they are located at the area shown on the bottom of the aerial map. The top area is not used for courts, is very sloped, and will not be developed.

Mr. McEvoy pointed out this area towards the brook is excessively steep and challenging to develop.

Mr. Todisco asked about saying "this area cannot be developed" and the situation regarding this part of the property. He said a house cannot be constructed on property with slope more than 15%, and tennis courts to the rear property is more than 15%.

The regulations stated a house cannot be constructed on land more than 15% steep and Mr. McEvoy said the land to the river is well over 15% grade.

Mr. Roberts said this area cannot be developed.

A suggestion was made by Mr. Bowman for this area to be put into a conservation area.

According to Mr. Roberts this has been discussed with the Land Trust. It would reduce the club's tax liability.

The Commission discussed the Copper Valley Tennis Club issues, such as 23 parking spaces being enough for a tennis tournament, using grass areas for parking, the two sets of lights on the court which are not often used, clarification of no future development on the land, and clearing up concerns about the rear lot access. Mr. Roberts stated that the club may donate the property to a charity in the future.

Attorney Fazzone submitted the letter from the Copper Valley Tennis Club into the record.

The Commission continued discussions about the rear lot access, looking at the back property for the CFD turn around, and the rear lot access beginning at lot #2.

Mr. McEvoy stated the rear lot access terminates on lot #2. The rear lot is about 350 feet long; and the subdivision requires a common access way with more than one driveway connected. Lot #3 driveway is in the same place as the club house and pool area, with a 15% grade.

Mr. Todisco cited his concerns about a safe set up for all the properties, CFD statements being an obstacle, and lots 2 and 3 being too steep for a turnaround is also a concern.

For the next public hearing, Mr. McEvoy said there will be changes to the plans. He noted the regulations were crafted with safety in mind, and the applicant meets all the requirements. He thinks the Fire Marshal's comments exceed what is required in the regulations, and said the applicant will work with CFD to satisfy their comments.

Mr. Bowman pointed out that the cul de sac is level right now, and this application is similar to the Inverness Court application. He commented on the CFD sometimes becoming involved in the zoning regulations. A similar subdivision has been approved without problems. Mr. Bowman suggested a CFD staff member be invited to attend a PZC meeting to state their concerns.

Attorney Fazzone said everyone should be satisfied that in adopting these regulations, the Commission took into concern the public safety. One example is the requirement of sprinklers for some rear lot access ways, and this application does not require sprinklers. He submitted that what is proposed is within the regulations and the regulations take public safety into consideration.

Mr. Voelker said that Attorney Fazzone is partially correct...the special permit regulations are broader than what is specified in the subdivision regulations. Section 40 grants broader authority.

This public hearing will be continued. Mr. Strollo said the Commission wants more information on the drainage calculations.

According to Mr. McEvoy, there is a decrease in impervious surface with this subdivision development, especially in the pool and patio areas. The land to be cleared is minimal; some trees along the slope (parking lot to playground area) will be cleared. There will be some clearing in the rear of lot #3 for a larger back yard. For three houses there will be little clearing. Honey Pot Brook goes to the north. Lot #3 starts to slope where the sewer connection is shown. Drainage to the Yacavone property will be eliminated. Swales will be provided around lots #2 and #3.

Rain Gardens – with impervious surfaces there is no opportunity for the storm water to be absorbed by vegetation and the soil conditions. By taking out impervious surfaces almost all the runoff leaves the paved area, drains to the storm management system or overland. For the club today there are garden areas draining into Copper Valley Court, towards Honey Pot Brook through the Court lots. With the proposed development there will be more vegetation on the land, taking out impervious surfaces, taking out buildings, demolishing concrete patios around the club house, and this eliminates about 50% of the impervious surfaces. Soil testing was done in the area, and based on the soil mapping it is sand and gravel.

There were no further questions or comments. The public hearing was continued to Wednesday, October 16, 2019.

VI. ADJOURNMENT

MOTION by Mr. Bowman; seconded by Mr. Brucato.

MOVED to adjourn the public hearing at 9:12 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk