

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION  
PUBLIC HEARING HELD ON MONDAY, JANUARY 14, 2013 AT 7:30 P.M. IN  
COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE  
CT 06410**

Present

Earl Kurtz, Chairman; Sean Strollo, Lelah Campo, S. Woody Dawson, John Kardaras, Gil Linder, Louis Todisco.

Alternates: Jim Bulger

Absent: Martin Cobern, Tali Maidelis; Alternates Gaudio and Marinaro.

Staff: William Voelker, Town Planner

**I. CALL TO ORDER**

Mr. Kurtz called the public hearing to order at 7:31 p.m.

Mr. Strollo read the fire safety announcement.

**II. ROLL CALL**

Mr. Strollo 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 each application.

- |  |                    |
|--|--------------------|
| <b>1. Special Permit Application</b>         | <b>PH 11/14/12</b> |
| <b><u>PT Real Estate Investment LLC</u></b>  | <b>PH 11/26/12</b> |
| <b>156 North Brooksvale Road</b>             | <b>PH 12/10/12</b> |
| <b>To create (3) lots, two of which are</b>  | <b>PH 1/14/13</b>  |
| <b>Rear lots; one existing dwelling</b>      | <b>MAD 3/20/13</b> |
| <br>   |                    |
| <b>2. Resubdivision Application</b>          | <b>PH 11/14/12</b> |
| <b><u>PT Real Estate Investments LLC</u></b> | <b>PH 11/26/12</b> |
| <b>156 North Brooksvale Road</b>             | <b>PH 12/10/12</b> |
| <b>3-lots</b>                                | <b>PH 1/14/13</b>  |
|  | <b>MAD 3/20/13</b> |

Attorney Anthony Fazzino represented the applicant. Mr. Fazzino noted that this is a continuation of the public hearing from November 26, 2012, and the applicant has filed and granted an extension of the mandatory action date. Since the last public hearing Mr. Fazzino and the applicant have met with Town

Planner Voelker and various Town department staff, and there are some significant modifications to the plans.

Mr. Voelker read the Fire Department comments dated 1/10/13 into the record.

Ryan McEvoy, P.E. Milone and MacBroom, represented the applicant and reviewed the revised plans with the Commission. This is a 3 acre site at 156 North Brooksvale Road, with a 2-family house located in the front of the parcel along with a barn, out building, and car port to the rear. The site is mostly wooded to the rear where most of the lot area exists; there is presently 130 feet of frontage; and the original plans have the 2-family house remaining with a rear lot access for lots 2 and 3.

The Fire Department and Engineering Department had issues with the ability of fire and emergency vehicles having access to the rear lots, negotiating the horizontal curvature.

The revised plans take the existing house, convert it to a single family house, and allows the minimum lot size to be reduced to 20,000 sq. ft. (from 40,000 sq. ft.), and softens the geometry of the rear lot access. In order to satisfy the Fire Department comments the center line radius is now 200 feet. This allows the rear lot access to shrink in size from 420 ft. to 350 ft.; the lot areas for the two rear lots will be slightly larger with more flexibility in the building envelope. There is creation of a rear lot access with appropriate geometry for emergency vehicles.

Another staff concern was the rear lot access way not being owned by the rear most lot, but by the front lot. Because of the minimum lot criteria under the zoning regulations it would be impossible to subdivide this parcel, and have a rear lot access without having the access going through an easement on the front lot. This easement will have full access and utility rights to the rear properties. The barn on the lot will remain, but the car port and small out building will be removed.

The driveway to the barn in the back was raised as an issue by Mr. Kurtz, who asked if this driveway would be eliminated.

Mr. McEvoy said this is a paved parking area around the barn which will remain.

Mr. Dawson advised that he has familiarized himself with the record of the applications.

To get to lot #3, Mr. Todisco asked if it is necessary to drive over lot #2, or just over lot #1.

Mr. McEvoy said that was correct.

Mr. McEvoy explained that the barn can only be an accessory to the single family home; it cannot be rented out; and this fact should be noted on the subdivision map to communicate to future owners that this is a requirement per the zoning regulations.

On the original plans, Mr. Strollo asked about the green area coming in and taking part of the wooded area away, because the house is moved over.

Mr. McEvoy said there was a small area of vegetation that will be able to remain, but because of expansion of the lots and shrinking of the rear lot access, the houses are closer to North Brooksvale Road. He pointed out the narrow strip of vegetation which will be eliminated to grade out for house #2.

Mr. Strollo asked about a rectangular box noted on plans and what this was.

This is a car port and Mr. McEvoy said it will be demolished.

Attorney Fazzone submitted an exhibit for the record which was an historical record of recently approved subdivisions where the rear lot access way is not owned by the rear lot, but by the front lot. In most situations where the rear lot access way is owned by the front lot the width of the lot is 130 feet. If you take 50 feet from the road the minimum requirements would not be met, and would require destruction of the front house in order to get a 3 lot subdivision on a cul de sac.

One of the issues on a rear lot access way is whether or not it is desirable to have a Town road. One consideration is whether or not the proposed Town road could be extended or desirable to extend to adjoining properties. In the subject applications, the entire surrounding property is developed to residential building lots, all of which are occupied, and part may be adjacent to the swamp area which is not buildable.

Attorney Fazzone introduced a letter from 2010 to the Commission from former PW Director Michaelangelo regarding Town roads as opposed to private drives, and read the letter into the record.

It was noted by Mr. Fazzone that this letter refers to a 3 lot subdivision with 300 feet of Town road if it were to be developed as a Town road. The letter was submitted for the record and the file.

With removal of the front house, Mr. Fazzone said a Town road could be on the subject property.

The applicant has submitted, and based on the plans shown, and in the context of the regulations, that a Town road is not logical or feasible without tearing down the front house.

The applicant has submitted a comprehensive Declaration of Easements and Covenants for the record.

Town Planner Voelker informed the Commission that Town Attorney Olson viewed this document, made recommendations to the original draft from Attorney Fazzone, and the applicant has no objections to the changes.

According to Attorney Fazzone, the body of the document was prepared by him and was an attempt to address concerns about the rear lot access way. He tried to give rights to all of the owners to enforce the Declaration; to give the Town rights to enforce the Declaration of Easements; and the language is specific as to no right of way obstructions, parking etc.

The highlighted areas in the document are the changes made by the Town Attorney, and the applicant has no objections to any of these changes.

The Town Attorney numbered all the paragraphs, and fortified what the applicant provided.

Pages 2 and 3 – highlighted area makes it clearer that all parties share in the maintenance and repair of the right of way; this begins when construction starts on the lot.

Page 4 – refers to majority vote of the owners required to undertake a repair or maintenance. Town Attorney Olson added the sentence...“Nothing in this paragraph...” in paragraph #1.

Page 5 – para. #11 – no one member can block or obstruct the easement area including parking of cars.

Para. #12 – gives notice to now or future owners that this Declaration creates rights that are... “necessary, convenient and a matter of public safety and any interference with those rights is a violation of the Subdivision approval...”

Mr. Fazzone said these are easements and covenants that run with the land, which means they are binding as long as those lots are within the subdivision. He stated that comparing this declaration to what is in the subdivision regulations, what has been utilized in the past, will show the subject declaration is more comprehensive and provides manner and basis for relief is the declaration needed to be enforced.

The Commission was told by Mr. Voelker that the reason this was done was due to concerns expressed by staff. Having the Declaration of Easements gives everyone more power of enforcement.

Attorney Fazzone commented on the overall subdivision layout being better, and the front parcel becomes a single family home.

A question was raised by Mr. Todisco about how the paragraph would work with an outvoted lot owner.

In reply, Mr. Fazzone said it would be in the area of public safety, i.e. snow plowing.

It was noted by Mr. Todisco that in the way the declaration is written all three owners would share in the maintenance and repair costs.

The Commission was informed by Mr. Fazzone that the applications have received IWW approval for the subdivision, and final design approval must be received.

There were no further comments or questions. The public hearing was closed.

**3 Special Permit Application**  
**Jack Krudwig**  
**1146 Waterbury Road**  
**Expansion of existing Church**  
**And Associated Parking**

**PH 11/26/12**  
**PH 12/10/12**  
**PH 1/14/13**  
**MAD 3/20/13**

Jack Krudwig represented the applicant for the project. At the last public hearing the Commission requested that the parking area be slightly changed to arrange parking so it did not get into the back yard restriction. Mr. Krudwig said these changes have been made, drawings have been submitted, as well as drainage calculations. The Fire Department comments have been received.

In response to a question on when the project will start, Mr. Krudwig expects to begin when the construction drawings are completed, probably in March or April.

Mr. Voelker read the Fire Department comments, dated 1/11/13 into the record.

Mr. Krudwig stated he has spoken with D.O.T. and has formal approval. He will fax the information to the Planning Department.

The list of subdivision with rear lot access ways owned by the front lot, and the Declaration of Easements and Covenants are attached to these minutes, and were made part of the record.

There were no further questions or comments. The public hearing was closed.

**4. Subdivision Application**  
**Pinnacle Land Development LLC**  
**650 Oak Avenue**  
**3-lots**

**PH 1/14/13**  
**MAD 3/20/13**

Ryan McEvoy, P.E. Milone and MacBroom represented the applicant.

Mr. McEvoy stated that this is a 37 acre parcel just north of Oak and Higgins Roads; there is an existing house and barn structure on the parcel; and the parcel is wooded and used for agriculture in the northern section. The applicant is looking to create two frontage lots along the north side of the existing house. There is an existing house and barn on lot #1; lots 2 and 3 would be single family homes.

The project has received WPCA feasibility approval for sewer accessibility; has received IWW approval; and storm water runoff will be mitigated with underground filtration chambers. There is an existing path to the farm area which will be discontinued; and the proposed lots will not have access rights for any farm equipment.

Mr. Voelker read the comments from the Engineering Department dated 1/7/13, and Regional Water Authority comments dates 11/26/12 into the record.

According to Mr. McEvoy the applicant must account for any increases in runoff that may occur from a development, and in this case there is an increase in runoff. The increase has been calculated that is associated with the two single family lots, and this can be mitigated by discharging into an underground chamber.

Mr. Strollo asked if this is a piece of property for a future development with a road going in there.

According to Mr. Voelker this is not an area where the road would be put because of the large amount of wetlands.

Mr. McEvoy advised that the whole eastern side of the parcel is wetlands.

Mr. Voelker does not know where you could put in a road, and for what purpose. This is a property that begs for frontage lots rather due to the nature of the wetlands. He said that the Colton Lane area is similar to this area, and one family member will continue to farm a parcel of the land, and this is why Colton Lane is a temporary cul de sac.

There were no further comments or questions. The public hearing was closed.

**VI. ADJOURNMENT**

MOTION by Mr. Strollo; seconded by Mr. Bulger

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

VOTE The motion passed unanimously by those present.

Attest:

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**Marilyn W. Milton, Clerk**