

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON WEDNESDAY, NOVEMBER 13, 2013, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Earl Kurtz, Chairman; Sean Stollo, Vice Chairman; Lelah Campo, Martin Cobern, S. Woody Dawson, Edward Gaudio, John Kardaras, Gil Linder, Louis Todisco
Alternates: Leslie Marinaro; Absent: Jim Bulger and Jon Fischer
Staff: Suzanne Simone, Environmental Coordinator

I. CALL TO ORDER

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

Mr. Kurtz read the fire safety announcement.

II. ROLL CALL

Mr. Stollo 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.

Ms. Simone read the call of public hearing for each application.

V. BUSINESS

1. Subdivision Modification Application

Ricci Construction Group Inc.

Request for sidewalk waiver-Crestwood Drive

PH 11/13/13

MAD 01/17/14

Attorney Anthony Fazzone represented the applicant, stating that this subdivision was approved in July 2013 for 4 lots at the end of Crestwood Drive calling for extension of Crestwood Drive as a continuation of a public road. The approval of the plans showed sidewalks for a new road section, but the existing section of Crestwood Drive has no sidewalks.

This is an application pursuant to Section 11 of the Subdivision Regulations for a waiver of the sidewalk requirements of Section 6.10 of the Subdivision Regulations.

Construction has begun on the road; the beginning of the road where it meets with the cul de sac (marked red on the plans) calls for retaining walls on both sides of the street. Entering the new subdivision from the new portion of Crestwood Drive there is a 100 foot long retaining wall. In the process of excavating in this area the applicant ran into significant amounts of bed rock. Attorney Fazzone submitted photographs of the

conditions and requirements and phases of installation of the retaining wall. The applicant attempted, but failed, to get slope rights from the owner when the original development was approved. It was required that the developer leave the 50 foot strip, which did not include slope rights to deal with the property elevation changes. This meant construction people must work within the 50 foot section; they would not be able to use geo grids normally used in retaining walls; nor could there be supports into the ground to help keep the wall in place. The developer found a wall to satisfy the Town requirements, be self supporting, and the problem is the blocks are 2 feet thick.

Attorney Fazzone referred the commissioners to the photographs showing the construction site for the road.

The issues have been discussed with the town engineering department, and the town is adamant that there be a 4 foot snow shelf. In looking at the 50 foot right of way, there is a 30 foot pavement requirement, 10-12 inch curbing requirement, 2 feet of block, and installation requires a drainage section behind the wall, and small area of sloping to bring it down to grade. The entire 50 foot right of way is taken up due to constraints in building the wall and there is no place for a 3 foot sidewalk.

Attorney Fazzone cited the letter from the Engineering Department for the record.

For the applicant, Attorney Fazzone made the following statement.

The applicant believes that the topography, bedrock, lack of sloping rights help meet the requirements of Section 11, and these types of things, not unique to this property, are not generally applicable to other land in this area. In addition, granting of the waiver would not have a significant adverse effect on adjacent property, on the public health and safety, which would violate the zoning regulations. Granting of the waiver would not interfere with the orderly development of contiguous property or violate the Plan of Development.

Attorney Fazzone stated that the condition, lack of slope rights and lack of space which would lead the commission to grant the waiver are brought about by the inability to use the type of wall that is 2 feet thick and is not self supporting. There is no physical way to conform to the required design standards. There are no sidewalks on Crestwood Drive, and school buses pick up students on this road. Under provisions of Section 6.10 this property is away out on Jinny Hill Road; there are no schools or any public facilities within walking distance; and where there is absence of sidewalks in the immediate area it makes immediate installation impractical.

Mr. Gaudio noted there is a 50 foot right of way; the road is 30 feet; and two foot blocks in the 10 foot section; another 10 inches to 1 foot for curbing; and he said this leaves 7 feet in the middle. He questioned why sidewalks cannot go into this area.

In response, Attorney Fazzone explained that the Town requires a 4 foot snow shelf in addition to the sidewalk, and drainage support behind the self supporting wall. In photo #2, he noted the excavation which is practically up to the property line; photo #3 shows

the drainage behind the installation of the blocks. Attorney Fazzone referred to some of the other photos of the site which show the construction issues.

Mr. Gaudio asked about the wall being the whole length of the road.

Attorney Fazzone said it is 100 feet on one side and 50 feet on the other side.

Regarding the 4 foot snow shelf, Ms. Campo asked if PZC could waive this requirement.

Chairman Kurtz said that the PZC would not go up against requirements of the town engineering department, as they are the experts.

Ms. Simone noted the 10/2/13 memo from the Engineering Department which was read into the record.

The commission was told by Attorney Fazzone that the town standards include the 4 foot snow shelf plus the sidewalk.

Ms. Campo commented on the town engineer recommending the applicant make room for the sidewalk, even though it does not have to be installed, and she asked if the town engineer supports the waiver request of the applicant.

Attorney Fazzone said this is physically impossible. The right of way itself is adhered to, and it is the construction standard that cannot be adhered to, and the road is 350 feet long. The applicant wants to eliminate the entire sidewalk.

Stating she followed Mr. Gaudio's comment on the footage, getting down to 7 feet, and a certain amount of space needed behind the block for proper drainage, Ms. Campo asked what the decision was on the proper depth to allow for the excavation and drainage behind the 2 foot block.

It is about a 5 foot requirement, and Mr. Fazzone said this is required to meet specifications of the installation of this particular wall.

Ms. Campo asked about the height of the retaining wall and why this wide a wall was required.

The wall must be supported and Attorney Fazzone cited two ways to support a retaining wall – go back certain distances with geo grids into the adjacent land to support the narrow, more common wall; and specs for this type of block must be adhered to before the town engineer will approve the wall.

Regarding the Planning Department staff memo, Ms. Campo asked whether the applicant knew about the site conditions at the time the application was filed. She read an excerpt from paragraph #1 into the record...*"The applicant has communicated they forgot to request this waiver in the original approval..."* Ms. Campo said that the

applicant has been relating unforeseen site conditions to the commission, and attempted to get space from an adjacent property owner.

Attorney Fazzone stated that the problems were found in the site conditions after they started the installation, and after attempting to get slope rights from the abutting property owner.

With the space available, Ms. Campo commented on the road already started, if there is a way to shift the road to one side and do sidewalk installation on one side of the road.

The road construction has started, and Attorney Fazzone said there is a similar condition on the opposite side of the road, but it is shorter. He pointed out the area in the new portion of the road. The conditions exist on both sides.

This road is 350 feet long, and Ms. Campo said the retaining wall is 50 feet on one side, 100 feet on the other side, so she questioned the possibility of installation of sidewalks on the portion of the road without a wall.

Attorney Fazzone responded "yes".

The footage/math calculations were questioned by Mr. Todisco, who said a foot wide area is needed in the area between the retaining wall and property.

Attorney Fazzone replied and stated one of the conditions of the town is having a fence on top of the retaining wall, so there must be space for installation of this fence. There is limitation due to the height of the wall, and this requires a slope back to the neighbor's property of a certain grade. In this instance, to maintain the stability of the wall, the specs require a little over 5 feet.

In response to a question posed by Mr. Todisco on the space needed between the 2 foot block and the property, Attorney Fazzone said there is space to the cut of about one foot for drainage; and to slope down to not exceed the specifications for the wall, there is an area needed to slope down to meet the town slope requirements.

Mr. Todisco said there is a 5 foot cut to the end of the block, then a 4 foot snow storage area, plus curbing, and this equals 10 feet. So, there is no room for any sidewalk. He noted that the rest of the street does not have sidewalks in an existing neighborhood, and he asked about the applicant seeking a covenant rather than a waiver. He also asked if there is a waiver of sidewalks on the rest of the property.

In reply, Mr. Fazzone said he did not know the answer to that question.

Mr. Linder brought up the engineering memo which supports a waiver based on the application for sidewalks in the future. He read the comment into the record. With a wavier by PBC, he said it is impossible to satisfy the engineering department.

Stating that was correct, Mr. Fazzino said it cannot be done without impeding on the 4 foot show shelf.

In that regard, Mr. Linder said PZC gives a waiver, it goes to engineering, and there is a conflict. He assumes this is what would occur, and said the memo is a contradictory statement.

Mr. Cobern asked if the current cross section meets the engineering department standards for a right of way.

Mr. Fazzino said it does.

Mr. Campo said there is more to that sentence in the memo which says...*provided that the Town's standard right of way cross section is adhered to in order to facilitate sidewalk installation in the future.*" She commented that you cannot have both.

Then, Mr. Cobern said you can. At some point you can get the slopes right putting in a different kind of wall, and the only requirement is the cross section of the right of way meet the town standards. Considering location and nature of this street it is likely and reasonable for the PZC to grant a waiver because there are no sidewalks nearby, or leading up to the street, and there is no logical reason to install sidewalks in the first place.

It was stated by Ms. Campo that under Section 6.10.1 the PZC requires all new streets and residential zones to have sidewalks installed.

At the suggestion of Attorney Fazzino, the public hearing should be continued pending clarification from the town engineer.

Without granting a waiver, Mr. Todisco stated the applicant could not go forward with the project.

Attorney Fazzino said probably not, and the applicant would be building a road that the town refused to accept.

THE PUBLIC HEARING WAS CONTINUED TO NOVEMBER 25, 2013.

(Commissioner Todisco recused himself from the Marbridge application due to possible conflict of interest. Ms. Marinaro was the alternate for this application).

2. Special Permit Application
Marbridge Retirement Center
665 & 655 West Main Street
Assisted Living Convalescent Homes
And the Like.
Sec. 30. Sch. A., Item 7.F

PH 10/28/13
PH 11/13/13
MAD 01/17/14

Attorney Jeff Cugno represented the applicant, stating this application was filed in September 2013 for a special permit related to Section 30, Sch. A. Item 7.F. Attorney Cugno read the section into the record.

The commission was told by Mr. Cugno that Marbridge has been planning to expand and improve its existing facility with anticipation of this type of development. Notices were sent to all abutting neighbors, and a neighborhood meeting was held on October 21st. There is now an improved site plan and application which addressed neighbor concerns. Attorney Cugno said this plan is good for the town and Marbridge Retirement Center, and submission meets the requirements of the regulations, and the development is in compliance with the intent of the special permit and new amendments.

Attorney Cugno introduced Lewis Bower, owner of Marbridge Retirement Center, Matt Williams, Architect, Gregg Fedus, P.E. and Kwesi Brown, P.E.

Lewis Bower, Berlin CT, owner of Marbridge Retirement Center, reviewed the history of his family's ownership of the facility dating back to 1973, and upgrades and additions to the existing building (s) on the property. He commented on this project as an evolution in the operation of the business and the health care industry, with the need for supportive services. A few years ago he started the process for the proposed new facility, met with town staff and business owners in Cheshire, and developed a plan that is sensitive to the community, addresses health needs of residents, is in character with the neighborhood, and which will be a state of the art facility.

Mr. Bower stated that the facility is licensed by the State of Connecticut. The facility has about 95% occupancy, does not meet fire and safety codes for a new facility and is grandfathered in, does not have an elevator or rooms with private baths. There have never been any complaints against the licensure of the facility. The proposed development is reconstruction of the facility with a phased in plan so the facility is still operational. Mr. Bower believes the facility will be a gateway to Cheshire coming from Waterbury on West Main Street. The newly constructed facility will be set back from the road; will meet square foot room requirements and bathroom in each private room; will have enhanced security and elevator; and better life style features.

Matt Williams, Architect, Madison, CT walked the commission through the process for the project, and displayed photographs of the existing facility and additions. He noted that the property is 300 feet deep along Carter Lane.

Site Plan – the dotted lines on the plan are the foot print of the existing structure; there will be reconstruction of the original house with a barn L connected in a New England farm building fashion; there is a need to expand the facility while keeping the operation ongoing; and the expansion is for the entire facility. Mr. Williams showed an aerial photograph of the site, stating that the applicant proposes to do the new structure further back from West Main Street; move residents into the new building; and then take down the old building.

Neighborhood – On the plans, Mr. Williams pointed out the neighborhood area with modest sized houses, and open space around the building and property. He displayed a photo concept model of the new facility.

Landscaping – there are existing mature trees on the site, with undergrowth that does not offer much value.

Parking – the entrance to the facility will be moved down, out of site, with a buffer around the area.

On the plans, Mr. Williams pointed out the site of the new building, 17 parking spaces, turn around, sidewalk, canopy, elevated terrace, landscaping along the site, the lawn, and confirmed removal of some of the undergrowth, and stone foundation that will be left as a “ruin”. Landscaping on West Main and around the neighborhood streets will remain the same.

A rendering of Marbridge Retirement Center’s proposed facility was displayed. It will be a Victorian barn with soft color and darker center link color; 9 foot ceilings on the 1st and 2nd floors; 3rd floor attic; finished basement; another access from Jocelyn Lane, creating a below entrance floor.

Historic District Commission – Mr. Williams reported that HDC was helpful and pleased to see the structure go back to better than original. HDC incorporated adding elements and keeping the building simple. A photograph of the details of the colonial building was displayed.

The existing building is +36 feet high; portions of the façade are pushed back from the street; the lawn will be extended; and the stone wall will remain.

Lighting – the site lighting will be minimal; there will be one 12 foot pole light; ballard lighting around the parking area; lighting is contained and on the ground.

Gregg Fedus, P.E. reviewed the site design for the project. On sheet #2 he pointed out the existing site conditions, and 2 buildings on the adjacent property acquired by the applicant. On sheet #1 (revision #6) the brown color is the buildings; light brown is the terrace area; gray color is the proposed parking, access ways and walkways. The entrance is slid towards West Main Street; there is buffering on the west and south side of the side; 17 parking spaces; circular drive for drop-offs; elevations will be similar to those on site today; the property drops one way off to Jocelyn Lane; the stone retaining walls in the existing house will be retained (some will be demolished) and will be storage for the generator and transformer. An emergency access cut is in Jocelyn Lane; the applicant is working with the Fire Chief and Fire Marshal for fire equipment access to the site off Jocelyn Lane.

Drainage system – this has been submitted to the engineering department for review. The applicant is providing underground storage in two locations (sheet #3). The high point is located through the circle; storm water will be run and caught with two catch basins right before Carter Lane; on the other side water will flow into the catch basin at the corner of the parking off the circle. This water will run back into an underground infiltration unit, storing it, slows it down, infiltrates some water into the ground, working its way to another system located off Jocelyn Lane. This reduces peak runoff from the 10, 25 to 100 year storms, and empties into the catch basin on Jocelyn Lane.

Grading – There are some slight changes located at the corner of Jocelyn and West Main and grading in the parking area will be the same as today.

Sheet #1 – shows the setbacks of the building, the line within the underlying zone, and the building was pulled in a bit off Carter Lane, and the existing building on Jocelyn Lane has been pulled back as well.

Ms. Marinaro asked about fire department comments being addressed on safety going in and out, and if they were addressed. She also asked about ease of access for fire equipment.

In response, Mr. Fedus said the comments were addressed, but these are not reflected in the site plan. The applicant agrees to the items – emergency key boxes, one fire hydrant installed on Jocelyn Lane which will be confirmed in the field, but there is no main in front of the property on Jocelyn; fire hydrant has been added on Carter Lane by the facility entrance; there is an existing hydrant on West Main Street on both sides. Ease of access for fire equipment has been addressed with addition of a curb cut, paved apron, turf stone pavers that look like grass but support the weight of a fire truck. The applicant has received the turning radius information from the Fire Chief; there is access from the front of the building; a fire truck can pull right in; the Fire Chief looked at the design; and there will be a dry run once the sub-base is installed. The applicant is working with the Fire Chief and the department on all items.

Building Sprinkler System – the connection for the Fire Department must be located within 50 feet of a fire hydrant.

Mr. Williams informed the commission that there have been meetings with Chief Casner and Marshal Koslowski on fire department issues, particularly fire equipment access to the site. Fire equipment can go through the driveway and over the island in the center; there are grass paver systems on site. Regarding the hydrant, there is no water on Jocelyn Lane to the subject property. Marshal Koslowski said that when the sprinkler systems are designed and access is configured, a hydrant can be pulled off that system.

Traffic Report – Kwesi Brown, P.E. Milone and MacBroom, stated that a traffic and safety assessment was done for the proposed development. The steps included review of the roadway, traffic conditions, and the impact of the development on traffic will be

very low. The primary access to the building will come off Carter Lane. The posted speed limit on West Main Street is 35 mph. According to Mr. Brown, assisted living centers have lower traffic generation, and trips during peak hours would be 5 vehicles in and out of the site. West Main Street has 15,000 vehicles per day, and the site traffic is very low, and during some times of the day it will be negligible.

Accident reports – there have only been two accidents in recent years at the site. Site distance, Carter Lane to West Main Street, is not an issue. Coming out of Carter Lane the minimum site distance is exceeded to the left, and to the right there are two embankments. This is the existing condition for a town road intersecting with a State road. At some point the sight lines could be improved along the frontage, and the applicant will work with the State on these improvements.

Stopping distances – A motorist on West Main Street could safely stop before hitting a vehicle coming out of Carter Lane; the minimum distance is 305 feet and the site exceeds this limit. Based on what is measured in the field, northbound and southbound approaches, there will be no significant impact on the traffic with this development, as the minimum criteria is satisfied.

Ms. Marinaro questioned the number of additional employees coming to work at the bigger facility. Based on the layout of the plan, she also asked about the existing area for family get togethers, activities when families are invited to the facility, and the amount of parking available.

At the present time, Mr. Bower said there are three people employed for the day shift. With the new facility there will be a maximum of 50 residents, so there would be 6 staff people on the day shift. There are fewer employees on the 2nd and 3rd shifts, as assisted living clients are ambulatory. The facility will have more than enough parking. Major events are few, and visitors come on holidays for short periods of time, with some clients (about 25%) leaving the facility on a holiday. There is parking across at the church lot, if needed.

Mr. Cobern clarified that the parking spaces on site exceed what his required for such a facility.

The traffic study is marked “draft” and the final version will be submitted to the Planning Offices. For clarification, Mr. Strollo noted, on page #1 of the study, that Route 70 has one traffic lane in each direction...not two traffic lanes. This will be corrected in the study.

Mr. Strollo asked about changing the direction of Marbridge to an assisted living center for older people, and noted that today some residents walk the area and are younger.

It was stated by Mr. Bower that the present licensure is for 25 beds; 12 beds are walk out beds; and the future intent is an assisted living center.

At the sight line with the wall, Mr. Strollo asked about the possibility of eliminating the wall, lowering the grade, and have a sidewalk level with the grade.

The issue, according to Mr. Bower, is a town road coming into a State road, and they would have to improve the sight lines. There is a concern about the wall abutting the sidewalk and the possibility of someone falling. He is amenable to any changes as safety is very important. Regarding the current clients at the facility, Mr. Bower stated they would not be switched out as they consider Marbridge their home. The newer clients will be older people who cannot live at home any longer.

PUBLIC COMMENTS AND QUESTIONS

Marcia Wieler, 25 Jocelyn Lane, resident since 1975, said she is the middle house on the street. The house to be demolished is not a barn and should be on the historic listing as it was once a market/store. Ms. Wieler commented on this facility being smaller in the past, traffic is now a disaster on Carter and Jocelyn Lanes, there is a sharp curve, and it is difficult to get out of Carter Lane. She does not want a garbage dumpster near her house. She suggested commissioners drive the area, see the traffic conditions, and know that residents do not want to destroy their neighborhood.

Matthew LeFrance, 29 Carter Lane, stated that 4 windows of his house will face 17 parking spaces. He purchased his house 6 years ago, knew about the facility, but would not have moved to this area had he known a larger facility was planned on the site. He asked about the new residents being 80 to 90 years old, and requested written documentation that this would be the age of the new residents. Right now some residents are younger and wander the neighborhood. Mr. LeFrance submitted paperwork on Mr. Bower's West Haven facility – Seacrest – being rejected by the PZC for expansion, and he read paragraphs 4, 6, 7, 11 into the record. He questioned the difference between the Marbridge and Seacrest facilities, as all the complaints are the same. Regarding the zone text change, Mr. LeFrance was unfamiliar with this change, approved 9-0 by the PZC. He said the new facility will impact the neighborhood with parking, lighting, noise, generators, response to emergency calls at all hours of the day and night, continued unsupervised wandering of residents. The construction time frame, related noise, closed roads, etc. are questions which must be answered for residents.

Rich Frappier, 26 Carter Lane, commented on a proposal 12 years ago to build a duplex for 38 Carter Lane which brought panic to the neighborhood. He purchased this land to maintain the integrity of the neighborhood and continues to pay taxes on it. According to Mr. Frappier there are no retired people in the current facility. If this application does not pan out, he asked what would be on site next...a methadone clinic, rehab center. At the end of the day everyone else goes home, but the area residents have to live with this nightmare

Sid and Lyn Greatorex, 11 Jocelyn Lane, stated he pictures this building as he looks out his front window at a dumpster, driveway, parking lot, and this is not the reason he moved to Cheshire. He said it is depressing the applicant plans to do this, and that PZC would even allow it to be done. There are concerns for safety of the people, especially children, in the area, as residents wander, leave debris, booze, cigarettes etc.

on people's property. He asked the commission to consider everything regarding this proposal including the traffic issues.

Ms. Greatorex said she has worked in nursing homes, and Marbridge is in the business just for the money. When residents wander she has to call in her grandchildren, She asked PZC commissioners to take a field trip and recognize that neighbors will see everything, including parking lot and lights.

Ron Laukaitis, 49 Carter Lane, agreed with comments made by other residents, and remarked about the walk of death, the difficulty pulling out of the street, and not seeing any improvements with the proposal. He cannot see a 28,000 sq.ft. facility on this street. This is a nice neighborhood, but there are strange people wandering all around, with 30+ more rooms and more people being proposed. An assisted living facility will impact the neighborhood, and Mr. Laukaitis said the market is not motivated by the health care industry. Some of the people have substance abuse issues. The market place is more private than Title 19 clients. For the proposed facility, the entrance should be on West Main Street.

Attorney Cugno expressed appreciation for the comments and questions, and said the applicant will respond to them at the next public hearing.

Mr. Cobern also appreciated the input from neighbors. He remembers the application from 12 years ago before the commission. The members of the public were informed by Mr. Cobern that the PZC operates within narrow rules of what can be considered. He suggested the members of the public look at the zoning regulations, Chapter 40, 40.4, which discussed what the commission can consider in a decision on an application, such as size, intensity, effect on neighboring property values, etc. People should focus on areas within the purview of the commission as it would be more effective and concise with these issues and concerns.

Mr. Kardaras asked if Mr. Bower had any public safety instances with residents in the area.

There are none he is aware of and Mr. Bower said there have been no complaints through the Police Department, or from residents with disturbance complaints. Mr. Bower has given neighbors his private cell phone number, has never received a call or complaint, and he has been told any issues were handled by facility staff. Some of the clients have moved out of the facility under the State Health Plan.

Mr. Linder asked about the facility receiving notification of the curve, stone wall, and related concerns.

Stating he has not had any notification, Mr. Bower said it has now been brought to his attention and he will look at safety concerns.

For the new facility, Mr. Linder asked if any rooms would have kitchens.

Mr. Bower replied that it is hotel style rooms, no functioning kitchens, but some can have microwaves and small refrigerators. The dining model is in a central dining room.

Regarding staff, Mr. Strollo asked if this includes kitchen staff, and the state regulation per person in the facility.

Mr. Bower reported that there is one person per 25 residents and this is the regulated standard.

Ms. Wieler said she is a nurse, has been to Marbridge, and kitchen help distributes medications. 50% of the residents are not convalescent people, and belong in a psychiatric hospital. They are under heavy medication, wander the neighborhood, throw trash, speak profanities, feed birds, and residents have to pick up the trash. One resident took Ms. Wieler's dog. 50% of the residents are from New York because New York pays more money than other states.

THE PUBLIC HEARING WAS CONTINUED TO NOVEMBER 25, 2013.

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| <p>3. Zone Text Change Petition
<u>Ball & Socket Arts Inc.</u>
To amend Special Adaptive Reuse
Development District
Section 45.A.1.2
To add flexibility to the Special Adaptive
Reuse Regulation</p> | <p>PH 10/28/13
PH 11/13/13
MAD 01/17/14</p> |
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Attorney Fazzone represented the applicant, stating this is a modification of Section 45.1.2 of the S.A.R.D.D. regulation, and it would be necessary to delete Section 45 A.4. This regulation has only been used one time for a convalescent home on West Main Street, but the project was never completed. Mr. Fazzone stated that the overall purpose of the S.A..R.D.D. is to permit flexibility in the use of structures and properties which become obsolete or historic. The applicant is interested in pursuing this regulation for the purpose of cleaning up the Ball & Socket factory building, but is not proposing a specific project with this property, which is a great example of how the use of S.A.R.D.D. can be made. The property is an old manufacturing building, in an I-1 Zone, and to improve or rehabilitate it could only be for use allowed in the I-1 zone. The building has been vacant for many years, and has not attracted any users for the I-1 zone purpose.

There is a definition of "adaptive reuse" and Mr. Fazzone read it into the record.

Rehabilitation or renovation of existing buildings or structures for any use other than the present use. The conversion of obsolescent or historic buildings from their original or more recent use to a new use.

Mr. Fazzone stated that the problem with Cheshire's regulation, the first section requested to be changed, is coming to seek an adaptive reuse development district under the regulation. It requires that you only have the uses that are allowed in the underlying zone. In this case, someone could rehab the building, but only for industrial use. The regulation is strict, and the approval was the first step taken by the commission. It is considered a zone change, and the first step is getting the particular property declared S.A.R.D.D. From there, once the commission makes the decision to change to an adaptive reuse development, the applicant still has to come in to get a special permit for their particular use or uses.

It was stated by Mr. Fazzone that PZC has a lot of control. The regulation is not flexible. The proposal is to allow the adaptive reuse and within that district for PZC to decide whether or not the use is appropriate for the area. Modification would allow the application for the S.A.R.D.D. a use that is otherwise allowed elsewhere in the regulations. He cited an example of a commercial use zone and someone proposing a building which does not suit commercial uses anymore. They may propose a low skilled home enterprise which might not otherwise be allowed in that zone. The commission granting the provision makes Section 45.A.4 obsolete because it says in this type of zone you cannot approve anything unless the use in the original zone is also allowed.

The applicant is seeking other uses than the use allowed in the industrial zone, such as a use permitted in the commercial zone. Mr. Fazzone said this is a simple request with the PZC comfortable with giving the applicant the opportunity under the special permit regulations to convince the commission that a particular use is appropriate for a building in a particular zone.

Mr. Todisco asked if this allows PZC to zone by special permit.

This is the same as S.D.D. in the center of Town for a commercial property, and Mr. Fazzone said it could be zoned residential. In the S.D.D. the zone change is proposed and then propose a special permit under a special regulation for a particular project. The last one in the S.D.D. district was for Cheshire Coffee which involved a zone change to S.D.D, and by special permit for a restaurant.

With the proposal before the commission, Mr. Todisco stated that everything in the zone is commercial.

Mr. Fazzone said it is commercial, partial residential.

Mr. Todisco said this is an industrial property, surrounded by commercial.

It was stated by Mr. Fazzone that everything on West Main Street is commercial, and the industrial runs along Willow Street all the way back to Cornwall Avenue.

With this proposal, Mr. Todisco said we are taking what is in an industrial zone, and saying we can put in something commercial, a less intensive or offensive use. Industrial zones can have lots of noise, fumes, etc. He said if we are talking about a residential zone, and wanting to put this overlay zone on it, something commercial could be put in there. This seems less desirable than the direction of the subject proposal.

This particular property is surrounded by commercial property, and Mr. Fazzone said that under the special permit regulation, the proposed use would be appropriate for the neighborhood. We are dealing with a building that would not lend itself to the particular type of residential in the neighborhood. Mr. Fazzone stated that the applicant must prove the use is compatible with the surrounding neighborhood.

Mr. Todisco cited the language "compatible with surrounding neighborhood" and its importance in what the applicant is seeking in terms of a change. This is what gives specific authority to the zoning commission to say that this particular use is not compatible with the surrounding neighborhood. This is separate from the special permit regulations.

Mr. Fazzone said you get this in the zone change under this regulation, and another chance in the special permit regulations. The applicant must prove its compatibility with the surrounding neighborhood.

Mr. Cobern said this is an excellent concept, but is unsure about the details. Looking at Section 40.1 Intent of Special Permit, Mr. Cobern said this is based on zoning districts. The special permit is designed for uses which are permitted but require the special permit. S.A.R.D.D. seems to eliminate this criterion, is a use normally permitted in the district, is an overlay zone, which normally does negate the underlying zoning regulations. He has some concerns about specific guidance to the commission regarding throwing out underlying zoning regulations.

The subject application will be held open, and Mr. Cobern said the applicant should look at where to make it less flexible. Everything depends on the discretion of the commission.

Mr. Fazzone said that any building of this nature can lend itself to restaurant or entertainment, and the use must be spelled out in the table of uses.

Section 30, Table of Uses, was cited by Mr. Cobern who said each zone has certain allowed uses, some with a site plan, some requiring special permit, but this is still within the context of what is allowed in the zone. There is not much guidance to the commission other than concern for the neighborhood.

Mr. Strollo noted that West Main Street is a mixed use area with many zones. Across the street from this property is an R-20A zone. He suggested getting the S.A.R.D.D. more towards the main roads.

In that regard, Mr. Fazzone cannot think of a better building for the application of the concept. The structure has become obsolete and is no longer suitable for its prior use, and little interest for uses allowed in the I-1 zone.

Mr. Cobern said the commission requires writing specific new zoning regulations for the district. And, there may be a way to find more structure in writing regulations for the district.

The special regulation is required, and Mr. Fazzone said it cannot be done without the adaptive reuse, because it is non-conforming, does not meet side lines, and to go back and use the property as before, there were heavy presses and stamping machines which disrupt the neighborhood rather than help it.

There may be a way to say the S.A.R.D.D., rather than make it into an overlay zone, can replace the underlying zone, and Mr. Cobern said the regulation should come up with a list of permitted uses in the new zone. Then, the commission can look at the specific uses proposed to be allowed. It is still flexible, but less wide open than it is now.

Procedurally, this is change of the zone, and Mr. Todisco said the commission is being asked to change the text of the regulation. There is no project, per se, coming here. If the regulation changes, and Ball & Socket wants a center for performing arts, they are applying for the overlay zone placed on this property. He asked if a special permit is needed at this point.

With S.A.R.D.D. application, Mr. Fazzone said the applicant would get a set of regulations that would state the use the applicant wants to do in the new zone. And, they would be spelled out – restaurant, art gallery, theater. Those would be the only things allowed in this S.A.R.D.D. development. Then the special permit says how the property will be developed pursuant to the regulations. This is not much different from the north end zoning regulations.

This is a multi step process and Mr. Cobern said it is changing the zoning regulations, submitting a zone map change for the area, and submit a special permit and site plan. There are check points along the way.

Mr. Fazzone said this is the concept and process giving the PZC the most control over any type of application contained in the regulations. Under Connecticut law, denying the zone change to the S.A.R.D.D. is bullet proof, and courts do not overturn refusals to change the zone.

Mr. Linder asked if the applicant is proposing to change just this property to an S.A.R.D.D.

Mr. Fazzone stated that the property being cited is an example; the application has nothing specific to do with the Ball & Socket property; and it is not property specific.

In the memo from staff, Mr. Linder noted this regulation has already been used.

It has been used once, and Mr. Fazzino said it does not give the flexibility. The existing regulation states exactly what was done at the new Lakeview Convalescent Home. It was a residential use allowed in the zone; it was a building with a non-conforming use; and they wanted to make it residential, higher density, age restricted, using the building with more properties around it. As the regulation is now written, this met the regulations because the use in the zone was residential and allowed.

Mr. Fazzino commented on this property lending itself to be converted to residential uses, such as a loft...it could not be done because it is in an I-1 zone, and residential is not allowed in this zone.

When the Town of Cheshire was designated as an area that could be made into special development districts, the Watch Factory property was a school. It would have been a perfect example for the adaptive reuse, with other uses than what are allowed there. It is only specific to those properties with buildings where the applicant can show they have become obsolete to their prior use, and do not lend themselves to the particular use in the zone anymore.

Mr. Linder stated we keep referring to properties such as the Ball & Socket..its a building. If the zone text change is approved, and the plans move ahead. If this building burned down, he asked if it could be rebuilt, as the design district applies to the area, not specifically to the property.

In that instance, Mr. Fazzino replied if this non-conforming building burned down, it could not be rebuilt. If it were converted to a special adaptive reuse and improvements were made, and was now in the overlay zone, Mr. Fazzino thinks it could be rebuilt.

Chairman Kurtz stated that this application would be continued pending receipt of responses from the regional planning agencies.

THE PUBLIC HEARING WAS CONTINUED TO NOVEMBER 25, 2013.

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| <p>4. Special Permit Application
<u>Karen A. Reims</u>
27 East Ridge Court
Two dwelling units into one dwelling
WITHDRAWN AND RESUBMITTED</p> | <p>PH 10/28/13
PH 11/13/13
MAD 01/17/14</p> |
| <p>5. Special Permit Application
<u>Core Development LLC</u>
589 South Main Street
3 Unit Planned Residential Infill Development
TABLED to 12/9/13</p> | <p>PH 10/28/13
PH 11/13/13
MAD 01/17/14</p> |

Ms. Simone read the letter from Attorney Anthony Fazzino dated 11/13/13 RE: Core Development LLC, into the record. The letter requested that the application be tabled and continued to 12/9/13, and consented to an extension of the mandatory action date for completion of the public hearing through 12/9/13.

VI. ADJOURNMENT

MOTION by Mr. Cobern; seconded by Gaudio

MOVED to adjourn the public hearing at 10:15 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk