

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, APRIL 14, 2014, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Earl Kurtz, Chairman; Sean Strollo, Vice Chairman; Lelah Campo, Secretary; Edward Gaudio, Gil Linder, Vincent Lentini, John Kardaras, Louis Todisco.

Absent: S. Woody Dawson

Alternates: Jon Fischer, Leslie Marinaro, Diane Visconti

Staff: William Voelker, Town Planner

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

Ms. Campo 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

- | | |
|--|--|
| <p>1. Zone Text Change Amendment
<u>Town of Cheshire</u>
To amend Section 23, Definitions
Add: Recreation Active and Recreation,
Passive
To amend Section 30 Schedule A, Permitted
Uses, Item 29A
To amend and add to Section 32, Schedule B,
Item 7.
No change; no action taken</p> | <p>PH 2/24/14
PH 3/10/14
PH 3/24/14
PH 4/14/14</p> |
| <p>2. Special Permit Application
<u>Core Development LLC</u>
589 South Main Street
13 Unit Planned Residential Infill Development</p> | <p>PH 3/24/14
PH 4/14/14
MAD 6/18/14</p> |

(Ms. Visconti was the alternate for this application)

Attorney Anthony Fazzone represented the applicant, and informed the Commission that copies of the rendering for the garage were submitted to the Planning Department and the Commission, and are part of the record.

Town Planner Voelker read comments from the Engineering Department dated 4/14/14, Fire Department dated 3/10/14 and Police Department dated 3/3/14 into the record of the meeting.

For the record, Attorney Fazzone clarified that it was stated in the staff report and by the applicant that the intention is to develop the property as condominiums. This is the case and intention, and for the record he stated that there may be a situation where the applicant determines a more favorable client for rental units. It is not guaranteed to be a condominium only although that is the intention at this time.

Attorney Fazzone stated that the applicant has addressed many of the comments read into the record, including Police Department comments, and the need for the State Highway Department to approve any work in the right-of way, site line requirements, and Fire Department requirements. These were all addressed prior to this hearing.

John Milone, P.E. and Dave Sullivan, Traffic Engineer, were present at the meeting.

John Milone, P.E. Milone and MacBroom, briefly reviewed the application for the Commissioners. The original application had concerns by the Commissioners and residents, most particularly vehicular access onto Elmwood Drive, the size of the buildings, the size of one building located along Elmwood Drive, visual and lighting impact on the abutters to the west.

In that regard, the applicant looked at the plan, reduced the size of the units by 25%, and came up with a village cluster development plan. There was modification of the access from South Main Street in the vicinity of the existing driveway access and curb cut; maintaining the existing home on South Main Street, a primary objective of the initial plan; maintaining some of the mature vegetation in this area of the site of mature trees; retain open space at the corner of Elmwood Drive and South Main Street; and the revised plan does all of this.

The driveway access is off South Main Street to the south of the historic home and large trees will be maintained along with trees in front of this home. The development will be three (3) similar buildings, 4 units in each, with access off the driveway or side of the buildings. Elevation of the building is smaller than before; they will be 70 feet in length; and this is reduced from 150 feet; the buildings will be same size as a single family home with a garage to one side.

There will be buffers to the west; the fence along the property line is retained; the fence will be 6 feet high with lattice top; a garage is proposed along this side and will be an additional buffer for residents to the west; there will be 2 smaller garage; each unit has its own garage; and there will be 18 surface parking spaces.

Mr. Milone stated that the plan is dramatically improved from the original application and the designers are more comfortable with this plan. The 7 bay garage elevation is 9 ½ feet to the eave, and 18 feet to the roof peak, with no rear windows. Each unit will have an air-conditioning unit (highlighted in green on the plans), and they will be close to the homes with additional landscaping so they are not visible. The property will be served by natural gas for heating.

Regarding the emergency access, Mr. Milone pointed out this access on the plans. He said it will not become a day to day access for residents. This access will have residential style fencing from the garage along the entire length of the parking to provide a visual barrier and edge statement and necessary fencing. The elevation is in keeping with a residential character.

At the last public hearing an aerial photograph was displayed, and Mr. Milone submitted more of the photos to the Commission and for the file.

Commission questions and comments

Mr. Linder stated the revised plan is much improved over the first plan. He has been thinking about the Route 10 entrance and exit which is very dramatic at the site as to how close the exit will be to Elmwood Drive. He questioned a vehicle exiting the property, making a right hand turn, and not having more than 50 feet. A person exiting and turning south, as someone on Elmwood exiting and turning north, is a problem for him as someone could not see a car coming out of the complex. Mr. Linder said one solution is an entrance only, and exit through the proposed emergency access, cutting down on Elmwood Drive traffic by one-half. He said the traffic on Elmwood is resolved, but a new problem is created with the left hand and right hand turn situation.

Dave Sullivan, Traffic Engineer, stated the applicant is not creating a problem, as this is the situation which exists. In looking at the traffic impact study we are looking at the change over what existing conditions would be. In this case if nothing happened the driveway would be in the same place; traffic volumes could be even higher under the development; the geometry of the driveway is being improved; and there is no creation of anything new. There was no problem with one way in, or on Elmwood, or the 2 way access at this location, and the small amount of traffic being talked about during peak hours is 10 to 12 vehicles coming in and out of the site. The distance is 70 feet; the situation is the same; it is not unique; it exists; it is relatively common with low volume driveways. He cited McDonald's driveway as an example, without any accidents, and there are other similar conditions in town. There is a condition of people coming out of Elmwood and this driveway being the same people who understand the criteria and can make an educated maneuver. Mr. Sullivan said the visibility is there, and they understand there is a 3rd factor in their visibility and site line decision making. The State of Connecticut must approve the driveway with a review.

With regard to Mr. Linder's suggestion of one way in and out, Mr. Sullivan said he has no strong opinion, but would not recommend it. He would recommend what is being proposed and previously approved.

Mr. Strollo asked about the study and number of people coming out of Elmwood Drive.

According to Mr. Sullivan there was no study done on the number of people, but he would estimate it to be about 50.

PUBLIC COMMENTS AND QUESTIONS

Ken Smoil, 30 Elmwood Drive, closest abutter to the proposed development, commented on hearing for the first time that the units could be rentals, and this being a different deal. He has concerns about property values with neighboring rental units, and said this option would not enhance property values. He is irritated and skeptical, has had nothing in writing in response to his complaints and questions, and at the last minute these could be rental units. Mr. Smoil said that Core is pushing the whole thing with the infill where the commercial zone was, is doing this development, and at what point do they stop, putting people on Route 10. He commented on the traffic concerns between 2 p.m. and 6 p.m. each day, and asked if this makes a difference to anyone else.

The Commission was told by Attorney Fazzone that the introduction of rentals is new, and the last staff memo stated the applicant was proposing condominiums, and that is still the intention. Ownership is not a zoning issue. The applicant does not want a stipulation that the units must be condos, and rentals were introduced for the first time at this hearing.

Mr. Todisco noted Mr. Fazzone's comment that it is not a zoning issue, and asked if his position is that the Commission cannot state "condominiums" and not rental property.

In response, Mr. Fazzone stated he does not believe it is within the authority of the Commission to do that.

At the rear of the property there are large trees and Mr. Todisco asked if they are on the applicant's property or the neighbor's property, and if they would stay.

Mr. Milone replied that there are large trees along the property line which would stay, and older evergreen trees near the garage area would be taken down. Large trees in the middle of the property will also be taken down.

Tim White, 1682 Orchard Hill Road, asked if it is within the purview of the PZC to have authority over the energy footprint of this property. He noted the development will be using natural gas, and asked if solar or heat pumps would be an alternative.

Mr. Voelker responded that the PCZ has no authority under the statutes to regulate energy, and should not do so. However, the day may come when the PZC is able to do this under statute.

Mark Nash, 357 South Main Street, property owner of rental units on South Main Street for 15 years, commented on the negative connotation of rental properties. He has the same issues with a single family rental. He finds the concept of property values with rentals as interesting, and a new rental development implies upgrading with increased competition. The units proposed are higher priced units. The market is how you maintain and operate a property, and this complex is a design of high quality and will be an asset to the Town with no intent to skip on this development. There will be high quality tenant, good condo, good location, and benefit to the Town.

Marcia Guglielmino, 108 Elmwood Drive, raised the issue of the fire access.

Chairman Kurtz informed her that the Fire Department comments were read into the record earlier in the meeting, and they include an electronic gate on Elmwood Drive to be approved by the department prior to installation.

Ms. Guglielmino said she has lived in condo units, and there are rules and a Board, which usually allows 10% rental units, with the association taking care of issues.

Joe Giannone, 91 Elmwood Drive, informed the Commission he has a rental unit behind his house with many problems of noise and trash, etc. and cannot get hold of the property owner. If there are rental units he asked how people can be sure things are kept up and clean. He wants the Commission to protect the residents of this area, and the development to be conducive to the neighbors way of life. He commented on the gates, their failure to open or to stay open, and they become an access way. Mr. Giannone questioned setting a precedent of 13 units on one acre of land. It is a nice project in the wrong location, a congested area, and should be in another location. He noted that high school students throw trash all over the street, drive fast through the street, and he is opposed to this project in its present location.

Ms. Visconti talked about the traffic, understanding neighbors do not want more traffic on the street, and asked if they would come to the same conclusion if the State says the new exit may be safer going out onto Elmwood Drive.

According to Mr. Voelker, the State can do that, but would do so after interaction with the Police Department and the applicant.

Mr. Sullivan said the State would have to determine the driveway is unsafe and look for an alternative.

It was noted by Attorney Fazzone that the Cheshire Police Department is the local traffic authority, and they have reviewed the plan, made comments to the State, and their review is not a preferred exit onto Elmwood Drive.

This is a State highway, and Mr. Voelker said if it is considered unsafe, the property owner must come up with an alternative.

Ms. Guglielmino said safety also includes people on the street, and she raised the issue of high school students coming out of Thorpe Lane using it as a regular road, speeding on the street, and the condo units compounding the situation.

Attorney Fazzone went back to the adoption of the Infill Regulation, and read excerpts from a Council of Governments (COG) letter into the record. He commented on there being limited spots along Route 10 where this type of development could be located. He said the Plan of Conservation and Development (Plan) limits the Town's ability to extend sewers and other public infrastructure outside of the Town Center, and an Infill Development takes advantage of existing infrastructure.

Mr. Fazzone commented on the need for smaller units in Cheshire; there is nothing like this built in Cheshire; and it is a high quality development modified to address concerns of neighbors and the Commission. The proposal conforms, in all respects, to the regulations. The proposal has been modified to address concerns of the Commission and the neighbors. Regarding the comment about rentals, Mr. Fazzone said it was a precautionary statement, and the intention is to develop the units as condominiums.

THE PUBLIC HEARING WAS CLOSED.

(Mr. Gaudio was recused from the MHD application; Mr. Fischer is the alternate)

- 3. Special Permit Application**
MHD Realty LLC
420 South Main Street
To establish a mix of 2 dwelling units
With professional offices as regulated
By Section 30, Sch. A. Item 3B of the
Cheshire Zoning Regulations

PH 4/14/14
MAD 6/18/14

Mary Mirkhani Fletcher and Peter Mirkhani presented the application for an option to establish a mix of 2 dwelling units in what is now a professional office condo unit. It is the first floor of 420 South Main Street, formerly a pediatrician's office; the 2nd floor is the offices of Dr. Erwich and another doctor. The applicants have the 2,700 sq. ft. property for sale, and want the option to develop two 1,350 sq.ft. rental units. The lot is 1.239 acres, 53,960 sq. ft. There will be no changes to the exterior of the property.

Town Planner Voelker read an excerpt from Section 30, Sch. A. into the record. He said this property meets the requirements of the regulations.

Mr. Voelker read Fire Department comments dated 3/24/14 and Engineering Department comments dated 3/12/14 into the record. He noted that the application must go before the WPCA for changes to the property.

PUBLIC COMMENTS AND QUESTIONS

Dr. Larry Erwich, 165 Norwood Court, and 420 South Main Street, Unit 3, addressed the Commission about the subject application. He explained that his wife purchased the 2nd floor condo unit in 1991; the 1st floor condo unit was owned by two doctors, and was rented out to a pediatrician's office. A condo association was formed, rules set, and there is no part of the property that can be used for residential units.

Dr. Erwich expressed his concerns about noise, food odors smoke smells, radio/tv noise, young children and crying babies in the rental units, unsafe conditions for children. These things would be distracting for his patients and him. He chose to be in a professional office building, not an apartment building. In speaking with a dental broker, he was told the value of his practice will go down if he is not in a professional building.

Peter Mirkhani advised that the first floor condo unit is owned by Dr. Heiger and Dr. DiMauro. His father, Dr. Mirkhani died in 2007. He wants to have the option for two small apartments for elderly or disabled tenants, is not looking to rent to college students, and the rental units will have noise insulation between them for noise buffering. There are two commercial units now, 4 units in the entire building. Regarding the condo document, the last meeting was in 1991, and the association is inactive. He and 3 others own the first floor units, which are vacant for 3 months now, and on the market for sale for a year. His group, MHD, is in favor of selling the first floor condo units.

Since the first floor has been professional units, Ms. Marinaro asked about the set up for hearing, cooking, etc. in an apartment, and whether the units are rentable.

In response, Mr. Mirkhani said the two units have separate heating units; there will be a fire wall between the floors; and rental units will have fewer cars and people in and out of the property.

Dr. Erwich clarified that there are two condo units, one owned by his wife and one by MHD, and the 1st floor has been vacant for 3 months and on the market longer, with price being an issue. He thinks there is still a chance to rent the 1st floor for professional space.

Chairman Kurtz stated that the agreement between the parties does not apply to the Commission, and the subject application meets the regulations and is not an unreasonable request.

This is an R20 A zone, and Mr. Strollo noted it is mixed use. If someone wanted to reverse the zoning for an office it could be done, but a commercial zone cannot have residential rental units.

The Commission was told by Mr. Mirkhani that to convert the units is a \$100,000 investment, and it would be done properly. To rent out the space professionally would be great, but the owners want the option, are looking at market indicators, and this is the way to go.

THE PUBLIC HEARING WAS CLOSED.

(Mr. Kurtz was recused from the Reims applications; Ms. Marinaro was the alternate)

4. **Waiver request of Section 11.1 of the Subdivision Regulations**
Karen A. Reims
27 East Ridge Court
Requesting waiver of Section 5.6 CUL-DE-SAC STREET OR DEAD END STREET, LIMITATIONS & Subsection 5.6.1.
PH 4/14/14
MAD 6/18/14

5. **Special Permit Application**
Karen A. Reims
27 East Ridge Court
Accessory Secondary Dwelling,
Section 30, Sch. A. Para 1B
PH 4/14/14
MAD 6/18/14

Attorney Anthony Fazzone represented the applicant, Karen A. Reims, for an application for accessory 2nd dwelling on a single lot, pursuant to Para. 1B, Section 30, Schedule A. If approved one owner must reside in either the primary dwelling or accessory dwelling.

Attorney Fazzone introduced photographs of the subject property into the record. The main house is on the left and accessory dwelling is on the right.

Mr. Fazzone read an excerpt from the regulations into the record.

The prior application for this property was under paragraph #4 of the regulations as a duplex, and was withdrawn. Mr. Fazzone said it is not the intention of the applicant to have the 2nd dwelling occupied by anyone other than family members.

The Commission was informed that the main house was built in 1985; the additional structure was built in 2004; a building permit was issued in October 2002 but did not include the kitchen, which was added to create a guest house for the parents of Karen Reims (Jack and MaryAnn Zima). The Zimas spent winters in Florida and used the

guest house in the non-winter months. After the Zimas died, the unit was occupied by Ms. Reims' son, and has been vacant since 2013. The Building Department recently inspected the property, and the applicant has done all the work required for a certificate of occupancy as the property currently exists. The applicant has received feasibility approval from Chesprocott Health District for modification to the septic system to accommodate the property as it now exists.

Mr. Fazzone filed a letter last week, April 9th, stating the two buildings meet all the dimensional and area requirements as set forth in Section 1B of Section 30. One of the requirements is architectural compatibility between the two dwellings, and this can be seen in the photographs with same design and style.

Fire Department comments indicate one of three possibilities with respect to improving fire safety, and Mr. Fazzone reported that there is a significant security system for the property. He read the description of the fire safety system into the record.

The applicant is asking for a waiver of the Subdivision Regulations, 5.6.1 for the number of units on a cul-de-sac. On a cul-de-sac street, R40 Zone, the maximum is 16 units allowed. If there is approval of the accessory, 2nd dwelling, the number of units would be 17 on the street. The waiver section is 11.1. The lot at 27 East Ridge contains 97,869 sq. ft., double the requirement for an R-40 Zone, and meets the requirements of Section 1B.

Mr. Fazzone submitted part of the Town's aerial GIS map for the record.

In looking at the Subdivision Regulations, double the area requirement is not the general case on most of the lots on East Ridge Court. Mr. Fazzone noted that some of the lots would not comply with Section 1B; several have wetlands which restrict a 2nd dwelling being built. The 2nd structure in the subject application has existed for more than 10 years without incident or adverse affect on the adjacent properties. Approval of the applicant will not violate any section of the zoning regulations, and the Plan of Conservation and Development calls for a variety of housing types. If the approval is granted, it is the type of family arrangement for which there is a need today – parents and children moving in together.

If the application is not approved, Mr. Kardaras asked what would happen.

In that case, Mr. Fazzone said there will be drastic alterations made to the dwelling. The question goes to the use; and the structure could not be used for anyone other than immediate family, i.e. their son.

Mr. Todisco said it would have to be family or domestic help.

That is correct, and Mr. Fazzone said if the family is living as a single housekeeping unit, the definition of family could be extended so they are not living in a single housekeeping unit.

Mr. Todisco said the difference is the kitchen in the 2nd unit. He asked about incorporation of the prior hearings into the record of this application, and if this would be done.

In response, Mr. Fazzone said it was not his intention as they were under separate regulation.

Under 11.1.1, Mr. Todisco noted the last time he did not recall any undue hardship being articulated other than one created by the owners. He asked for a statement on the record about the nature of a hardship.

Legally, this is a difficult point, and Mr. Fazzone said this is something that was done with the applicant being the owner. It is a situation of creating undue waste with respect to the property, and if this is a legal hardship, it is up to the Commission to decide.

Attorney Fazzone distributed 6 copies of the additional plans for the record.

Mr. Linder asked about the square footage which was, probably, built at the same time as the 2nd dwelling and serves this unit. If this garage were attached it would be a problem.

The garage has been used and Mr. Fazzone said it does not go within the square footage/coverage of the 2nd unit, and is not attached.

Ms. Visconti said the Fire Department is looking for upgrades and there is a security system, and asked if the department knew about this system.

According to Mr. Fazzone, the department did not know about the system, and he read the Fire Department memo into the record. It is the 3rd alternative for the department as one was monitored fire alarm system.

In the last paragraph of 11.1 (11.1.6) Mr. Linder stated the applicant shall set forth, in writing, reasons for the request. The Commission knows, verbally, the reason is for the family to use the unit.

That is correct, and Mr. Fazzone said this is something to be conveyed to the Commission – the purpose – and that section is more technical which requires referral to the specific section. The reason for the waiver is the regulations allowing only 16 units and this would be the 17th unit. The waiver request was sent in writing, as required, and should be part of the application.

In looking at the aerial map, Mr. Strollo commented on the units not being attached, but the map shows the main house attached to the 2nd unit attached to the garage or barn. This design is one big house.

The Commission was informed by Mr. Fazzone that there is a covered walkway from the main house to the barn. There is no direct interior connection between the two dwellings, and you cannot go from one to the other without going outdoors.

PUBLIC COMMENTS AND QUESTIONS

Richard Field, Peck Lane, stated his support for this type of dwelling unit, and asked about the size and square footage of the property.

Mr. Fazzone stated the main house is 4,228 sq. ft., and the 2nd dwelling is 1,812 sq. ft. and the garage is 1,023 sq. ft.

Ralph Mesite, 20 East Ridge Court, lives across the street from the Reims family, and stated his strong support for the approval of the applications. He stated that there has never been anyone other than family living in the dwelling, and there is a need for more of this type of living, which is similar to an in-law apartment.

Mr. Voelker read the Fire Department comments dated 4/11/14 into the record.

If the application is denied and the situation stays as is, Mr. Todisco said the family could continue to use the larger house, and the 2nd unit would be there except for the kitchen and usable for other purposes.

Attorney Fazzone said that was correct.

Karen Reims, property owner, gave a brief history of the property, stating the house was built in 1984, and the 2nd dwelling was to be a guest house but turned into a convalescent home for her parents. She did not realize there was no certificate of occupancy when her father passed away. At this time there is someone interested in purchasing the home, which has been devalued, and this party has the same situation of parents, children and grandchild. Ms. Reims reiterated that it was never the intention to have anyone other than family in the 2nd unit, and it was never rental property.

Ms. Marinaro commented on the need for this type of housing, but said fire regulations must be addressed and the department has the final say.

In that regard, Mr. Voelker said this is not being proposed as a dwelling unit with people living there and comes under the fire regulations.

Mr. Gaudio asked about the walkway between the two units and the roof line, and if it could be removed. He has concerns about a fire truck having access to the rear of the property (garage), and this walkway may not satisfy the Fire Department.

Attorney Fazzone will supply the Commission with a copy of the security system for the property and for the record.

THE PUBLIC HEARING WAS CLOSED.

VI. ADJOURNMENT

MOTION by Ms. Campo; seconded by Mr. Kardaras

MOVED to adjourn the public hearing at 9:25 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk