

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, JANUARY 12, 2015, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410.

Present

Earl J. Kurtz, Chairman; Sean Stollo, Vice Chairman; Members John Kardaras, Vincent Lentini, Gilbert Linder, Louis Todisco, David Veleber. Alternates Jon Fischer and Diane Visconti. Absent: S. Woody Dawson, Edward Gaudio and Alternate Leslie Marinaro. Staff: William Voelker, Town Planner.

I. CALL TO ORDER

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

II. ROLL CALL

The clerk called the roll.

III. DETERMINATION OF QUORUM

Following roll call a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. BUSINESS

Town Planner Voelker read the call of public hearing for each application.

- 1. Special Permit Application**
Pinnacle Land Development LLC
6 Edith Place
In-Law Apartment

PH 12/8/14
PH 1/12/15
MAD 3/18/15

Ryan McEvoy P.E. Milone & MacBroom, represented the applicant for the in-law apartment at 6 Edith Place for a special permit use in an R-40 zone. The main house, 12 Edith Place, is located on a cul de sac and is part of the Broad Brook subdivision. The site is an undeveloped lot and construction of the house includes a 750 sq. ft. in-law apartment in the rear of the proposed house. The apartment will have a separate entrance and exit; will be connected to the main dwelling through an interior hallway; there will be no separate driveway or parking access from the main dwelling.

Mr. Voelker stated that the access dwelling is being constructed as part of the principle structure and is not a separate structure.

There were no Commission or public comments or questions.

Chairman Kurtz closed the public hearing.

2. Special Permit Application
220 Realty Drive
220 Realty Drive
To develop a cemetery

PH 1/12/15
MAD 3/18/15

Attorney Anthony Fazzone represented the applicant in the application to develop a cemetery in the north end of town. If the application is approved, he stated that the cemetery would be a non-profit, non-stock corporation per paragraph #27 of Section 37.A of the zoning regulations and Connecticut General Statutes. The property is located over the north Cheshire aquifer. The application process has included notification to the Regional Water Authority, State Department of Health, DEEP, with an application filed with the Cheshire Aquifer Agency, for determination request as required by town and state statutes.

The Commission was informed by Mr. Fazzone that there are revisions to the plans as requested by the Cheshire Fire Department and Town staff, i.e. widening the road and paving the parking lot. These revised plans will be submitted to the Planning Department.

Ryan McEvoy, P.E. Milone and MacBroom, stated that Realty Drive is a commercial business park, and includes the Barker Museum and the Milone and MacBroom offices. The subject property is on the north side of Realty Drive.

On the aerial map, Mr. McEvoy pointed out the subject property for the proposed cemetery site. There is an industrial building on site which would be used for offices of the cemetery. On the east there is residential property, Braemar Drive, and the site includes Honey Pot Brook, wetlands and a flood plain. There are two additional properties accessing the parcel to Route 10. The building on site has been occupied by the Pythian Organization and has small office space.

Site topography is flat, particularly where excavation operations took place, and wooded areas are steep approaching the flood plain. Highest elevation is 192' and lowest is 122'.

The applicant is proposing a cemetery with 2,150 plots located in the excavation area, using 3.5 acres of the property. Access to the site will be improved from Realty Drive to the existing building with a new driveway terminating in a cul de sac, and the access road will be 24 feet wide. The site will have 43 parking spaces to the south of the building, and the road network will be 24 feet wide.

There is runoff from the property. The proposal is to bring in top soil and grass resulting in a decrease in runoff from the site. There will be new drainage facilities on site and better water quality basins. Testing has been done on the site, and soil conditions are mostly sand and there will be a significant amount of infiltration. The property is within the aquifer protection area; cemetery plot locations will be 1/2 mile away from the well field location off Blacks Road. With the proposal there will be a decrease in sediment

and improved characteristics of the property. During construction material will be moved around, about 25,000 cubic yards, with an erosion control plan in place.

Mr. McEvoy noted that the application has received staff comments, and revised plans will be submitted to the Town later this week. He will be meeting with the Town Engineer about the plans for this application.

Mr. Linder asked about the "brown" area on the aerial map and location of the cemetery to the Braemar neighborhood.

On the plans Mr. McEvoy pointed out the excavation area, and stated the brown area is within 500 feet of Braemar Drive, and the cemetery plots are within 700 feet of Braemar Drive.

Ms. Visconti asked about moving dirt in and out of the site and soil coming in and out.

The Commission was informed by Mr. McEvoy that the soil will be top soil, and there is a balance of material with regard to the grading. There will be asphalt moved on site for driveways. The existing driveway drops 20 ft. in elevation; there is relocation of the roadway on the site; and the site will be reshaped for more efficient layout of plots. No exporting or importing of material is expected because material will be moved around on site. On the east and south side there will be a roadway with grass. Improvements will result in no runoff or sedimentation going down the road, and area near the brook remains the same. Some trees will be cleared in the area of the parking lot, and at this time there are no plans for further expansion of the subject property.

A question was raised by Mr. Kardaras about the life span of the cemetery and the years to fill it up.

Mr. McEvoy replied that he could not answer that question.

On the aerial map, Mr. Todisco pointed out that the dark green area is wooded and noted it will stay the same. He asked about the neighborhood location, the wooded area between the cemetery and neighborhood, and if the cemetery can be seen from the Braemar neighborhood.

The Braemar neighborhood was pointed out on the map by Mr. McEvoy, who said there is 700 ft. between the closest house and the cemetery, and a large portion of the wooded area is wetlands which limits what can be done.

Town Planner Voelker informed the Commission and the public that this application will have to go back to Inland Wetlands and Watercourses Commission (IWW) with the revised plans for a determination if a permit is needed.

Mr. McEvoy pointed out the aquifer protection area on the site, and said the well fields are about one half mile away.

Mr. Kardaras asked about the portion of the property near Braemar Drive and if there is future expansion.

There is a 50 foot stretch of an old right-of-way, and Mr. McEvoy said there is no ability to use this stretch of land as there is the flood plain and wetlands. There are two properties in the Industrial Zone...one was a residence until recently, and they have access rights to the property as the home pre-dated Realty Drive development. This access must be maintained.

Mr. Volker advised these two properties are 5.8 and 5.1 acres in size, and the home was demolished in 2012.

Mr. Kardaras asked about the stability of the area where the plots will be located.

Using the aerial map, Mr. McEvoy noted that the side slopes are stable; the area is all sand; and testing went down 8 to 10 feet without finding ground water. The material on the site is well suited for a cemetery, and underground vaults will be stable. For digging a cemetery plot the usual depth is 6 feet.

(Mr. Strollo entered the meeting at 7:45 p.m.)

Attorney Fazzone stated that the regulations only permit non-profit cemeteries that must qualify under IRS regulations (Section 401 of the IRS code) and Connecticut and local regulations. The applicant has not received approvals as a non-profit group because regulations require local approval first to establish a cemetery and then the non-profit, non-stock corporation. Mr. Fazzone stated the applicant cannot get a permit without the Town knowing the non-profit affiliation.

The visibility of the cemetery site from Route 10 and alignment to Route 10 was raised by Mr. Veleber.

In response, Mr. McEvoy advised the cemetery cannot be seen from Route 10 and the site is lower than the grade between Route 10 and the property.

Mr. Strollo asked about a building to service the cemetery.

According to Mr. McEvoy the existing building will serve as the office for the cemetery, and this building is already there. He is unsure if it can be seen from Braemar Drive. The cul de sac to Braemar Drive is 650 to 700 feet. Mr. McEvoy said there will be no lights on the cemetery property.

Mr. Todisco asked about a mausoleum for above ground burials and if there is a need for another cemetery in Cheshire.

Based on his knowledge, Attorney Fazzone stated the family wants to establish a cemetery for their family and it grew into more than the original cemetery. He also

confirmed for the Commissioners that the only structure on the property will be the existing 4,000 sq. ft. building.

Attorney Fazzone submitted documents to the Commission to be included as part of the record. Included in the submission were Cheshire Zoning Regulations, references to the ordinance, statutes and regulations governing activities over an aquifer, state and local regulations, regulations dealing with a cemetery (no cremation or embalming), Aquifer regulations listing activities prohibited in the aquifer, state statutes on cemetery operations, notification per regulations to RWA with complete set of plans/copies of plans, and e mail notification to the CT DOH.

The Milone & MacBroom Traffic Division reviewed the application and a letter was submitted confirming that traffic for the cemetery does not compete with business traffic and peak hour traffic. Mr. Fazzone said there will be another application for earth removal/excavation, and revised plans will be resubmitted to IWW.

Mr. Fazzone stated that all activity for creation of the cemetery and roadways are kept out of the wetlands and upland review area. He explained that IWW first determined that no permit was needed. With revised plans the application goes back to IWW for further determination of a permit.

A question was posed by Mr. Todisco about how the applicant pays for cemetery maintenance of 2,150 plots, i.e. is a trust fund established. He also asked if there is a state agency for licensing of cemeteries.

Attorney Fazzone advised that there must be confirmed maintenance funds, and there could be licensing through the State DOH.

Mr. Todisco asked about laws on the establishment of the trust fund, a certain amount of money required in the fund, or if the owner makes this decision.

The owner makes the decisions and Mr. Fazzone expressed his surprise at the lack of regulations for cemeteries. He noted that some older cemeteries in Cheshire are maintained by the Town. For the subject cemetery the plots will be opened in stages.

Mr. Linder questioned the 3,100 acre parcel shown on the plans, and whether there will be an additional building on the site.

What is shown represents what is there, and Mr. McEvoy pointed out the yellow area as the entire 3,100 acres of land.

Ms. Visconti asked about the remaining portions of the parcel for development consideration without much to be done on them.

It was stated by Mr. McEvoy that Honey Pot Brook is on the site, and he expects development of the two rear lots in the future.

On the map given to the Commissioners, Mr. Voelker noted it shows the subject parcel and other areas not part of the subject application.

Attorney Fazzone informed the Commission that on the two rear parcels houses were built in the 1930's and 1940's, with establishment of a driveway going to Highland Avenue. There is no written easement or written right-of-way and over the years there is a prescriptive right-of-way and this is why this access is being kept open.

Of the 31 acres, Mr. Kardaras asked how many are developable.

The total developable acreage is 10 to 15 acres total, and Mr. McEvoy advised that with the existing building, driveway, drainage facilities and cemetery area...this is about 10+ acres. This leaves little acreage for potential additional development.

Mr. Fazzone said it would be difficult to get IWW permits and the applicant has no intention to gain access to Braemar Drive.

The issue of walking trails and recreation in the areas not yet developed, and the cemetery open to the public for walking was raised by Ms. Visconti.

Realty Drive is a private street and Mr. Fazzone does not see any prohibition to walking activities etc. and noted there are local roads to access the subject property.

PUBLIC QUESTIONS AND COMMENTS

Alan Houle, 110 Braemar Drive, addressed the Commission stating he lives on the portion of Braemar not directly affected by the cemetery, and has no visibility to the site nor does he have an abutting property. His concerns are about the aquifer to insure runoff from the property will not affect the aquifer.

Mr. Houle asked questions about the need for another cemetery in Cheshire, distance from the cemetery plots to the brook, estimated number of interments per year, and the statement of Attorney Fazzone that cemeteries are not potential pollutants. The Commission was told by Mr. Houle that there is an EPA document which states cemeteries are potential pollutants to the aquifer. With conformance to the regulations, he said this deserves further investigation.

In response to questions asked, Mr. McEvoy stated that it is 480 feet from the edge of the water course to the cemetery, and IWW has said no permit is needed.

Town Planner Voelker stated this public hearing will be continued, and more documents and information are coming from RWA and will be available to the public.

It was stated by Mr. Fazzone that timing for the continuation of the public hearing is determined by the January 20th IWW meeting. The public hearing could be continued to January 26th PZC meeting. If IWW determines a permit is needed, the entire application must be resubmitted.

If IWW determines permits are needed, Mr. Voelker explained a new application and new public hearing is required. The formal application to IWW must be submitted before submission to PZC. Based on the current plans IWW says there is no formal application needed. With the revised plans IWW may determine permits are needed. Excavation plan and existing plans require staff comments, and significant revisions must go back to IWW for further review and determination. He said the public will be informed as the process moves forward. Mr. Voelker wants to insure all legal steps have been taken and due process is in order.

Based on the determination of the IWW the public hearing will be continued to January 26th, or there will be resubmission of the application.

3. **Application for Re-Approval of a Special Permit** **PH 1/12/15**
Ball & Socket Arts Inc. **MAD 3/18/15**
495 West Main Street
Special Adaptive Reuse Development District
and Special Adaptive Reuse Development for an
Arts Center with mixed uses to include restaurant
and retail space.

Attorney Anthony Fazzone represented the applicant for re-approval of the Ball & Socket application approved on July 28, 2014. There is a filing requirement for special permit approval to file within 30 days on the land records of the Town. This was done. Another requirement under 45A.7.3 is filing within 90 days of the approval the verified copy of the PZC motion and approvals on the land records, including a mylar copy of the overall development plan. This was not done. Attorney Fazzone requested the Commission accept the complete record of the Ball & Socket application as the record for the subject application and grant re-approval. Attorney Fazzone stated there are no changes in the project as presented to the Commission.

For the record, Attorney Fazzone pointed out that Commissioner Linder was absent on the night of the actual vote on the application. However, Mr. Linder was present for all the meetings and presentation on the application and is familiar with the record.

Chairman Kurtz noted that Commissioner Veleber will be recused from the Ball & Socket application.

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

VI. ADJOURNMENT

MOTION by Mr. Stollo; seconded by Mr. Kardaras.

MOVED to adjourn the public hearing at 8:35 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk