

MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, FEBRUARY 22, 2016 AT 7:30 P.M. IN COUNCIL CHAMBERS, 84 SOUTH MAIN STREET, CHESHIRE CT 06410

Present

Earl J. Kurtz, Chairman; Sean Stollo, Vice Chairman; Members: S. Woody Dawson, John Kardaras, Vincent Lentini, Gil Linder, Louis Todisco, David Veleber.

Alternates - Jeff Natale, James Jinks

Absent: Edward Gaudio and Jon Fischer

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 all the applications.

1. Special Permit Application

Rudy Farricelli

110 Mayview Avenue

Temporary trailer on site for living.

PH 2/22/16

MAD 4/27/16

George Roderick, 110 Mayview Avenue tenant, presented the application for special permit for a temporary trailer on site for living. Mr. Roderick explained there was a house fire in January 2015, and following inspections by the Town Building Official there were building and health violations to be fixed. The violations are being addressed, and the process of rebuilding the house are being undertaken at this time. These include ripping off back of the roof, reshingling of the roof within the next week, wiring, floors, and walls being built within the next week. Once the house is closed in, interior repairs on the house will begin, and the work should take about three (3) months. The trailer is on the site for living, and there is also a storage trailer on site.

Mr. Voelker stated the special permit is for one (1) year.

There were no further comments or questions. Mr. Kurtz closed the public hearing.

2. **Waiver Requests** **PH 2/22/16**
MAD 4/27/16
Clearview Farm Preserve LLC
Pursuant to Section 11.1 Variances or Waivers
Of Regulations of the Subdivision Regulations;
The applicant hereby requests the following waivers:
Section 5.6.2 Permissible Lengths
Section 6.10.1 Sidewalks
Section 6.5 Intersections

3. **Special Permit Application** **PH 2/22/16**
MAD 4/27/16
Clearview Farm Preserve LLC
947 Cornwall Avenue
Rear Lot Access for 3 lot

4. **Subdivision Application** **PH 2/22/16**
MAD 4/27/16
Clearview Farm Preserve LLC
947 Cornwall Avenue
21 lots

Attorney Anthony Fazzone, Two Towne Center, Cheshire CT represented the applicant, along with Matthew Doucey, P.E. Milone & MacBroom, Cheshire CT.

Attorney Fazzone stated this is a resubdivision application for property off Mountain Road and Cornwall Avenue extension. The prior application for this subdivision was withdrawn in summer 2015 after discussion with the Town Engineer and Public Works Department staff. The application is awaiting Inland Wetlands Watercourses Commission (IWW) approval, and IWW has determined that the regulated activities are not significant. There are detention basins within the subdivision; all applications must provide zero increase in storm water runoff; and the Town does not want responsibility for maintenance of detention basins. The subdivision will have a homeowner's association (HOA) with a Declaration of Easement, Reservation, Restriction and Covenant (the Declaration).

Matthew Doucey, P.E. reviewed the application. This site is 947 Cornwall Avenue, on the west side of Mountain Road, between Sorghum Mill Road and Cornwall Avenue. It is in an R-20 zone, bounded by residential R-20 properties on the north, south and east, and to the west is North Roaring Brook. The subdivision will have 21 lots; 13 will be served by a new cul-de-sac, Beechwood Court, originating from Mountain Road, 140 feet from Sorghum Mill Road. The remaining 7 lots will be served via Cornwall Avenue Extension. The property is served by public water (RWA); all lots will have septic systems with feasibility approval from Chesprocott; and there has been notification to RWA and Dept. of Health. The subdivision will have 4 frontage lots; rear lot Accessway for lots 18, 19 and 20; all Beechwood lots are frontage lots. IWW application is pending, and there are no direct wetland impacts, with minor grading in the upland review area for bringing in the roadway and 50 foot reserve strip for access to the parcel. He pointed out the abutting wetland area. Storm water management models have been

done on the site, which is located on the open space parcel adjacent to lot #1. Models have been run for storms, 2 year to 100 year storms, in accordance with Engineering Department policies. There will be sediment and erosion controls during construction; there will be a silt fence, diversion berms, sediment traps. The topography is flat, much of the property is open field, elements of vegetation will be maintained.

Cornwall Avenue Extension, which is 15 to 19 feet wide, will be improved by the developer, with strip lining to 22 feet; sidewalks will be installed on one side of the street; there will be drainage improvements. The road will be brought to town standards under the improvements plan to serve the lots. The town standard is 30 feet wide, but Cornwall Avenue Extension will be brought to 22 feet wide with a sidewalk on one side, with a turn around as the road currently terminates without this provision. This road cannot be brought to town standards due to the lack of potential for future roadway extension. The 22 foot width is adequate for the lots to be served on this portion of the road, given the inability or lack of future road extension.

Mr. Linder asked about the shared driveway for lots 18, 19 and 20.

The Commission was told by Mr. Doucey that these lots are served by a rear lot access way, and share a driveway. Lot #20 owns the 50 foot strip leading out to Cornwall Avenue Extension. Lots #18 and 19 have easement rights for access and utilities. These lots will share maintenance for the driveway under an agreement.

Mr. Dawson asked what is behind the houses shown on the plans.

This is State forest and Mr. Doucey pointed out the six (6) parking spaces for public access to the forest (sheet SP-1).

Mr. Voelker stated there is 60 acres of State owned open space in this area.

Under town standards there should be sidewalks on both sides of the cul-de-sac, and Mr. Doucey noted there is a waiver before the Commission for sidewalks on only one side of the street. In between Mountain Road and the new development are homes created in 1959, and this is when the 50 foot access was developed for the subject parcel. The subdivision homes will be built similar in size to other homes in the area. The subdivision is about 30 feet away from the State forest land, and people will use the 6 parking spaces, but will not interfere with the subdivision property. The town owns this right-of-way and maintains it.

Attorney Fazzone stated that as part of the Deaconwood Subdivision there is a drainage easement, 400 feet back, and the town has drainage facilities that serve this subdivision and Mountain Road. It goes into the North Roaring Brook. Because of the zero increase in runoff the applicant has no right to make connection into these storm water facilities. The idea is to deed the right-of-way and everything south of the property line, lot 13. The town would own the road and the parking spaces, but also the area that

includes the town drainage facilities. He pointed out the open space which will be owned by the HOA, and its maintenance is in the Declaration.

Mr. Voelker said the HOA is responsible for maintenance of the basins, and this is similar to the Jarvis Street Apex Development.

With regard to the question about not improving Cornwall Avenue Extension to town standards, Attorney Fazzone said it goes to several questions, including why not connect the road. Cornwall Extension is extremely below town standards. Most of this area is off site; all improvements by the applicant are off site improvements; and legally they are not required to be done. It is a sub-standard road and, legally, it can be built on. The earlier application was withdrawn based on discussions with the Engineering and PW Departments as to whether or not there should be a road connected. The compromise was not to propose a road, but do improvements to Cornwall Avenue Extension, about 700 additional feet of impervious road surface and not connect to another street.

It was clarified by Mr. Dawson that with the town owning the road, the public parking spaces will be maintained by the town.

Mr. Todisco referred to the statement about the Cornwall Avenue Extension as a sub-standard road, 15 to 19 feet, no sidewalks, and the applicant being able to build on the road in its present condition. He was not aware of this, without a requirement for improvements.

The Commission was informed by Mr. Voelker that there was a court case tied to sidewalks, and PZC changed its subdivision regulations to eliminate sidewalks on existing streets. State statutes do not authorize off-site improvements on existing roads, highways, rights-of way when people develop land. The same principle applies here...a commission cannot require an applicant to turn Cornwall Avenue Extension into a 30 foot right-of-way. However, the extension of the roadway must be to town standards; the cul-de-sac portion would have to meet these standards; and there be a safe transition between the existing town owned road and the extended portion. The special permit for the rear lot access way is up for discretionary review, but the town cannot require an applicant to improve its roadway to 30 feet. If the town wants 30 feet, the town should improve the road. From a safety standpoint, the Cheshire Fire Department had concerns about this issue.

The question from Mr. Todisco was...if the developer does nothing on Cornwall Avenue Extension, homes could still be built, with the road staying as it is.

Stating, Yes, Attorney Fazzone said it may not be to the extent cited, but the cul-de-sac road must be built to town standards because it is an extension of Cornwall Avenue Extension. On the map he pointed out the 700 feet of roadway to be eliminated. The compromise is for improvements to Cornwall Avenue Extension, but no connection of the two roads. The town owns Cornwall Avenue Extension.

Mr. Voelker explained that the compromise was offered to the Engineering Department and CFD. The CFD agreed to put in residential sprinkler systems in some of the houses due to the length of the driveways from the cul-de-sac and rear lot Accessway.

With regard to these improvements, Mr. Kurtz asked about the town paying for some of the costs to bring the road to town standards.

Attorney Fazzone said that to get to the 22 foot width and sidewalk there were compromises, i.e. removal of some telephone poles. In the Engineering Department memo there is a statement about no objections to PZC granting the wavier requests. The additional 200 feet of length to the driveway was a suggestion. Last winter the town had difficulty storing snow in the cul-de-sac, and Mr. Fazzone noted that with the road extension there are fewer driveways (7 down to 4), and room for snow storage.

A question was raised by Mr. Linder about the 22 foot width for the 400 feet of length on the road, and the dimension where it intersects with Mountain Road.

Mr. Doucey measured and stated it is about 19 feet and meanders lots 15 to 19.

Mr. Natale asked about the compromise, road extension, and any problems with homeowners land being taken, and/or possible nonconformity.

There is no taking of land, and Mr. Fazzone said the trip of town land can handle 22 feet plus the sidewalk.

Mr. Jinks commented on there being 21 lots, with 50 to 100 people living there. He asked about two crosswalks across the road after completion of the development is created, and whether anything exceptional to be done to make the crosswalks safer...or if this is being demanded of the developer.

There is a current cross walk, and Mr. Fazzone said two more are proposed, with sidewalks added to connect to the existing sidewalks.

Looking at the plans, Mr. Veleber asked about stopping at 1000 feet and where the cul-de-sac would end.

Mr. Fazzone pointed out this location on the plans.

According to Mr. Doucey the easement is on lot #6; parking is back 200 feet and he pointed out the area on the plans. Some curb cuts were eliminated on the cul-de-sac, per the PW Department, to make snow plowing easier for the town.

There are no more than three (3) driveways on the cul-de-sac, and Mr. Fazzone said there could be a 4th one on the street part of the road. The prior application had almost seven (7) driveways and it is now reduced to 3.

With regard to the 50 foot right-of-way, Mr. Fazzone said it is deeded to the town, and he will get details for the Commission.

Mr. Voelker noted there is no old subdivision map; the history is unknown; but we know the town owns it and it is a 50 foot right-of-way.

With neighbors driving from one part of the subdivision to another, Mr. Kardaras asked the distance by car.

It is about 2,000 feet, and Mr. Fazzone said there are 20 lots along the front, 100 feet wide for each, and lots are one-half acre in size.

Mr. Strollo commented on prior situations with Oregon Road and Hilltop Road, stating that not being connected is okay. With bringing the road to standard at the very end, he asked what this does to people at the beginning of the road and travel back and forth.

The goal was cited by Mr. Fazzone, who said it makes the road better. The proposal is to improve the entire road. The cul-de-sac is up to town standards.

Mr. Doucey said it will be 22 feet uniform width, and have a new overlay, strip lining, new asphalt.

Waivers - Mr. Fazzone discussed the waiver request portion of the application. The first is a road offset; the prior subdivision was the Benz property with the 50 foot reserve area existing since 1959. As part of the Deaconwood approval, Benz gave the developer an easement. On the map he pointed out the storm water improvements put in by the developer. When the Deaconwood road was deeded to Cheshire, he also deeded and assigned the easement for the storm water system. Therefore, the town owns the Deaconwood road and this all goes back to the late 1970's and early 1980's. The town has utilized it and maintained it since the subdivision was approved. Sorghum Mill road is 140 feet away from the existing road. The original Benz subdivision was laid out in full conformance with the town's regulations. Mr. Fazzone said his research shows subdivision regulations revised in 1962, and there was no off-site requirement.

It is the applicant's submission to meet Section 11.1 waiver requirements. Mr. Fazzone said there is not much land remaining in this area with this shape and parcel of land with a right-of-way created in 1959 to service this land. The approval of Sorghum Mill, the drainage easement map and subdivision map created the condition for hardship which prevents the Benz property from meeting the offset. Without the waiver there is no way for the owner of the property to subdivide the land as other area properties have been subdivided. It would require a longer cul-de-sac than currently proposed.

As part of the record, Mr. Fazzone submitted a traffic study from Milone & MacBroom citing the number of trips in and out of the development each day, and it clearly states there is no potential impacts between the two roads.

Mr. Doucey commented on the travel speed study done by Milone & MacBroom which is part of the record. The conclusion was that the 85th percentile speed is 35 to 38 mph on Mountain Road. Sight lines for the proposed road are achievable in the location. (Figure 3 in the study). Turning maneuvers were cited in the study. The a.m. peak hour had one car turning left on Mountain Road, and p.m. had no vehicles. There is not much conflicting traffic in this location.

It was stated by Mr. Dawson that Mountain Road is the most heavily traffic road in Cheshire, and public safety is important.

Attorney Fazzone introduced the "Traffic Study" as an exhibit for the record. He noted that Cheshire Police Department (CFD) review was done in March 2015, and he read an excerpt from the report into the record.

CPD Review of Traffic Study was entered as an exhibit for the record.

Cul-de-sac Length was discussed by Mr. Fazzone who said the conditions are the same from the time of the original subdivision which is in compliance with the regulations, and created conditions not typically shared with other properties in the neighborhood. The setup was for the Benz property to be sub-divided in the future. Mr. Fazzone stated that the cul-de-sac is now proposed to be 1,200 feet long; this creates a situation which improves snow storage on the cul-de-sac; considerations were talked about for not creating a through street; elimination for the need for another 700 linear feet of impervious road surface. The traffic study and CPD comments should find that a waiver on the length of the cul-de-sac does not create a safety issue.

Sidewalk Waiver - Mr. Fazzone cited the following facts. There is a proposal for a sidewalk on the east and north side around the curve of the cul-de-sac; sidewalks, if required on the westerly side, would serve only four (4) houses; the town would not expect the land where the storm water drainage and parking spaces are located, and does not want responsibility for sidewalk maintenance. Sidewalks through the wetlands area would require the road to be built up at different grade to accommodate an extra width for sidewalk construction. In turn, this would require some grading and fill in the wetland to accomplish the sidewalk expansion. Sidewalks on the east side go all the way up to the cul-de-sac, and Mr. Fazzone pointed out the areas on the plans. Benz family is retaining some of the property with no intention for another lot.

There is no provision for walking between the two sections of the subdivision. There is a right-of-way by the mountain to the water tower and people sometimes use this area for hiking. With 1,200 feet of cul-de-sac, Mr. Fazzone said no additional houses will be built; there will be 13 houses; and with 1,000 foot length there could be a rear lot access way with the same number of houses.

There are two roads intersecting into Mountain Road and Mr. Todisco asked (Mountain Road and Sorghum Mill) if these properties were the same owner as the subject property.

Mr. Fazzino replied no.

Mr. Todisco asked if the point is another road for the Benz family was to do future development, but someone came in sooner on the other side of the road, and this defeats the Benz ability to develop.

Mr. Fazzino said that was a correct scenario.

Regarding the Deaconwood easement for storm water drainage, Mr. Linder said the applicant is proposing the new road go over this. He asked why this easement is needed, and the underground piping for access water to drain on the Benz property.

There is a storm water system coming through those basins, and Mr. Fazzino said that at a certain level the water must go somewhere. On the plans he pointed out the head wall, pipe going under Mountain Road down to catch the brook. He will supply the Commission with copies of maps, deeds, easements, etc. for their review and discussion at the next public hearing.

Mr. Fazzino submitted maps, deeds, and easement documents for the record.

PUBLIC COMMENTS AND QUESTIONS

Donald Burn, 930 Cornwall Avenue, asked about the prior plan having sidewalks on the south side of Cornwall Avenue Extension.

Chairman Kurtz said they are still there.

Peter Wilcox, 415 Mountain Road, stated disagreement with this being flat land, and asked if an environmental study had been conducted. He pointed out his house on the plans.

Mr. Doucey replied that the Natural Diversity Data Base hit came up; it was investigated; correspondence was sent to DEEP; and the engineers had to identify a list of species on the site. There was no identification of species on the site. Additionally, there was investigation for Eastern Turtle and Wood Turtle; 2 visits were made during breeding season; and no turtles were found on site. A botanical survey and habitat survey have been done and submitted to IWW.

Mr. Wilcox stated there are Copperhead snakes and white squirrels in this area, asked what happens to them, and this is a concern for families on the road.

Mr. Doucey said any endangered species from the database would have been identified for presence, and these were not identified. Only two species of turtles were cited for identification, and DEEP made no mention of the squirrels and snakes.

Joan Smallwood, 469 Mountain Road, has concerns about the proposed development, and concurred that white squirrels are in the area, and other wild life that form an echo system existing for many years. There is a deer and turkey crossing, heavy Mountain Road traffic, which endangers their lives. Ms. Smallwood commented on the storm water drainage issues, public water in the development but no public sewers to dispose of this water. This water will feed into the storm runoff or into the leaching fields. She has had problems with the drainage systems on the property, and has received information on the system from Chesprocott. The direction of water flow is cited incorrectly on the Chesprocott records. According to Ms. Smallwood there was an attempt to develop the Benz property 20 years ago, the southern access road was built up, and natural drainage to the wetlands was blocked, and this water drains onto Mountain road properties. The Smallwood house is at a lower level so all water drains onto her land; her property is underwater; there is basement flooding in the area; and more sources of water will suffer for this. She asked if the drainage system will be redesigned and who will maintain it, because now the 4 foot pipe drains the pond under the road, down the easement, and another 18 inch pipe is full filtered out. The drainage ditch taking the water to the wetlands has never been dredged, and has standing water. Major revisions of the system are required. There is a public safety issue due to hunting on the State land, with shots being heard in the area.

Ms. Smallwood commented on knowing she and others will lose some of their property, and there are concerns about where snow will go.

Looking at the map, Mr. Strollo said his understanding is that the open space is an area to catch water, which goes into the detention basins, and there is a rock structure that holds water.

Mr. Doucey advised that there will be a tv camera inspection of the system by the applicant to ensure its integrity is maintained, that it is cleaned out, and will work with the town to rectify any issues with the existing system. He knows drainage on the abutting properties is a concern; the applicant did a storm water management model for runoff mitigated for storms 2 to 100 years, and the existing problems will not be exacerbated. Another variable on runoff is not only the area but the impervious surfaces...grass, wood...and the water shed maps show much of the area is to remain in its existing state. There is little change in coverage and less area shed into the lots, therefore, a reduction in runoff. Sheet SP-1 cites an inlet near the detention basin, and the applicant can shift this location to capture more runoff from the Smallwood property.

According to Attorney Fazzone the storm water system on Deaconwood is not a contributor to the Smallwood problems. He described the system which goes from Mountain road back to Roaring Brook. The Commission packet shows the drainage easement, and it calls for the developer to build this roadway into the property. There

were financial problems between Benz and Barnett. The drainage deed is an easement to the town and it provides that it is operational and a function for Deaconwood. The applicant cannot hook into this system.

Ms. Smallwood's records show the drainage system ends in the back of her property, and the inlet at Sorghum Mill is 4 feet in diameter, draining into a ditch behind her property. She said the pipe is 18 inches, and fully blocked.

For the subject application, Chairman Kurtz said the water from the application does not run through that pipe.

Matthew Dell, 475 Mountain Road, disagrees with the traffic study, and cited instances where cars have come onto his property, between two houses, into the Deaconwood gully. With crosswalks and cars going 40 mph there are safety concerns and traffic issues. He showed a photo of the 18 inch outlet, and is not aware of an easement or deed to the area.

Mr. Doucey pointed out the 30 inch RCP that goes through this area, and on the plans also cited the area where the State property is located.

Chairman Kurtz recommended that Milone & MacBroom go into the field, identify these pipes, meet with neighbors, and get information prior to the next hearing for the Commission.

Attorney Fazzone suggested a meeting with the PW Director on the matter. His assumption is that the Deaconwood developer probably started to build the road, quit, and the town accepted an incomplete system. The applicant will complete the drainage system for the 400 feet. The 18 inch pipe may be different than from the Deaconwood development, and Barnett agreed to build the road with pipes to handle the drainage. There will be discussions with the Town Engineer and PW Director.

Vincent Fuoco, 433 Mountain Road, resident for 38 years, stated he is not against the development per se, but has concerns on how it will be handled. His biggest concern is drainage; his house is in the middle of all the development; 17 houses bring a lot of water into the area; and he has had 6 to 8 inches of water in his back yard and neighbor's yard. The level of the houses will be 17+ feet above his property; the septic systems will be directly in back of his house and there can be seepage into his yard. He has never had water in his basement, but after this development, he questioned his recourse. Regarding the traffic study speed and volume report, Mr. Fuoco said these are low numbers, and there will be more traffic into this area which the road must be able to handle. More stop signs could slow down traffic, as the average speed is 49 mph, with many accidents, dangerous curves, and more danger is being introduced.

Attorney Fazzone stated he would have the traffic engineer at the next public hearing. He also said the applicant is willing to meet with neighbors to review the plans and explain everything.

Ms. Smallwood questioned when the drainage study was done, i.e. within the last year, which has been dry. The data must be typical for what is happening now.

In response, Mr. Doucey said they used historical data for the rainfall intensity curves, and computations are not derived from one season.

Mr. Veleber clarified the Beachwood Court sidewalk going down the north side, meeting up with Mountain Road, running along the south of the Smallwood property, and Ms. Smallwood being responsible for the sidewalk maintenance.

That is correct, and Mr. Doucey commented on the crosswalk connection. He will check the plans, and if there are safety issues the proposed crosswalk may be removed.

Mr. Dell asked about fencing around the crosswalks.

There are sidewalks coming down Sorghum Mill, and Mr. Doucey said the proposed crosswalk is connected to a section of this sidewalk. There is no sidewalk on the north side of Sorghum Mill, but there is sidewalk on Sorghum Mill heading north.

Laurie Wilcox, 415 Mountain Road, is opposed to the development being considered at this public hearing, and said there is no data on the information presented. She questioned the water detention remaining on the ridge, and where it will go.

Mr. Doucey reviewed the function of the detention pond (located on lot #1). It maintains water, collects it, discharges to the detention basin (pointed out on the plans). The detention basin has an out control structure; water is slowly released from that location and discharged to Roaring Brook; drainage from the site is routed through the detention basin located in the open space lot on the site where it is detained and slowly released so as to mitigate existing conditions. The pond elevation is approximately 179.

Ms. Wilcox disagreed with the information in the traffic study, stating she works from home and is aware of speed, traffic, lost mailboxes, skids across front lawns...and the study is inaccurate.

Mr. Wilcox questioned runoff from the new development being held in the catch basin, allowed to dissipate slowly into Roaring Brook.

According to Mr. Doucey it will be held in the detention basin to be collected via catch basin, and discharged to that location. The catch basins collect water. From that location it is discharged to the North Roaring Brook. There are provisions to mitigate any sediment laden water.

Mr. Wilcox asked about liquids from all the houses, fertilizer, oil, etc. into the detention basins and how it is graded out.

In reply, Mr. Doucey said there will be treatment once the water is in the detention basin. There will be infiltration given the soils on site. Town Engineering Department is satisfied with the design, and nothing has been heard about what is being stated.

Attorney Fazzone reiterated that all reports have been reviewed by the Town Engineering Department, and there are no open comments with respect to them.

Mr. Jinks asked about discussions with the State, the traffic study, and what is happening with Mountain Road.

The traffic engineer will be at the next meeting, and Attorney Fazzone said the missing point is that what is being stated is "what the sight lines requirements are"...and the State has standards which the town has adopted. It is based on average speed, 85th percentile...and sight line distances are more than adequate and meet standards.

THE PUBLIC HEARING WAS CONTINUED TO MARCH 14, 2016.

VI. ADJOURNMENT

MOTION by Mr. Kardaras; seconded by Mr. Dawson.

MOVED to adjourn the public hearing at 9:50 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk