

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION
PUBLIC HEARING HELD ON MONDAY, JUNE 11, 2007, AT 7:30 P.M. IN
COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE
CT 06410**

Present

Patti Flynn-Harris, Chair; Louis Todisco, Secretary. Commissioners Richard Levy, Earl Kurtz, Timothy Slocum, Sean Strollo.

Alternates: Mr. Maye and Mr. Kardaras

Absent: S. Woody Dawson, Martin Cobern; Alternate - Ms. Marinaro.

Staff: Assistant Town Planner Lisa Murphy

Ms. Flynn-Harris read the fire safety announcement.

I. CALL TO ORDER

Ms. Flynn-Harris called the public hearing to order at 7:35 p.m.

II. ROLL CALL

Mr. Todisco called the roll.

III. DETERMINATION OF QUORUM

Following roll call a quorum as determined to be present.

IV. PLEDGE OF ALLEGIANCE

The group Pledged Allegiance to the Flag.

V. BUSINESS

Ms. Flynn-Harris and Mr. Todisco recused themselves from hearing or taking action on application #1 due to possible conflict of interest.

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| 1. Special Permit Application | PH 5/14/07 |
| <u>Rev. Eugene Charman</u> | MAD 7/18/07 |
| (St. Thomas Becket) | |
| 435 North Brooksvale | |
| Addition connected to existing parish center | |

Mr. Levy served as acting chairman for this application.

Paul Antinozzi, AIA, Antinozzi Associates, Michael J. Wysoczanski, AIA, and Chris Conklin, P.E. represented the applicant. Also present for the applicant were Kathy Rooney and John Lynch, Trustees of the Church, and Kevin Wetmore and members of the building committee.

Mr. Antinozzi stated that two items were to be addressed, the first being the final submission of the engineering report, and this has been submitted and approved by the town engineers for the on-site/drainage portion of the application.

The second item will be addressing some of the public comments from neighbors at the last hearing. Using the site plan, Mr. Antinozzi explained that the yellow indicates the existing building, and the rust color indicates the proposed addition. There were concerns from neighbors about the several windows on the plans, and they wanted clarification on the buffer zone.

Following the last public hearing, the applicant met with the neighbors to address the architectural issues. In the original plan there were 4 windows on the first level, and 1 on the second floor. The plans have changed to reduce the number of windows, and the second floor window has been eliminated, and relocated to the side, and is not facing the property line. The multi-purpose room windows have been moved around the corner to face the property line.

Additionally, there was a meeting with Mr. and Mrs. Villa to discuss the landscaping and privacy issues.

Kevin Wetmore, 21 Colonial Court, informed the commission, that there was a meeting with Mr. and Mrs. Villa and the church representatives regarding their concerns about privacy and landscaping. Improvements were made to the building design. A memo of understanding was drafted, and there is now a win-win situation for all parties. Mr. Wetmore read the memo of understanding into the record. In this memo, there is a statement regarding an 8 foot high fence, arbor vides between the church and the Villa property.

Ms. Murphy said that the Planning Department received a copy of the memo of understanding, and copies will be given to all commissioners.

Mr. Wetmore stated there is a commitment on the part of the church to install the fence and arbor vides for privacy for the church and the Villas. He said that the key is that whatever is there should be pleasing for all parties.

Acting Chairman Levy expressed appreciation, on behalf of the commission, to the applicant for working with the neighbors for an amicable resolution. The commission can make these conditions as part of their approval.

It was confirmed by Mr. Wetmore that the applicant is agreeable to having these conditions as part of their approval.

Ms. Murphy advised that all staff comments have been addressed.

Mr. Slocum reported that he visited the church property to get a better understanding of the property layout and where the rectory will be located. In

looking at the church property, he said he could sympathize with the concerns of Mr. and Mrs. Villa, but is pleased they have been addressed by the applicant.

Mr. Levy also visited the property to look at the layout.

Before public comments were stated, Mr. Levy stated that he has reviewed the record of the last meeting carefully. He noted an issue arose regarding alleged zoning violations on the property. He clarified that this commission is here to consider the application before it for a special permit for an addition to the premises. If there are zoning violations that issue should be taken up with the appropriate authorities of the town, and it is not a matter within the jurisdiction of the P&Z Commission, and will have no bearing on its decision.

Public Comments

Rose Palmieri and Robert Palmieri, 37 Crescent Circle, stated their property abuts the parking lot of the church, and they are opposed to the magnitude of this addition. The permit is for a non-residential use in a residential zone, and to her there appears to be an underground propane tank going in at the setbacks. There are many issues dealing with the setbacks, buffers, and said the commission has the option to increase the setbacks and should consider this. She does not want any infringement into the setback area, and the present screening should remain in place. The plan she saw has driveways, parking, propane tanks and sheds, etc. The church has a bocci court, with lights on a pole about 50 feet high, and she can see them from her back yard. This activity forces her not to be able to use her backyard, and she asked if there was a permit taken out for this bocci court. Mrs. Palmieri asked the commission to consider the feelings of the neighbors regarding the infringement into the wooded area between the property and all the other issues regarding setbacks. Her main concern is about the propane tank.

Judy Villa, 1020 Danard Place, asked about the newspaper reports contending the square footage of the addition was 3,300 sq. ft., and then 5,300 sq. ft. and the footprint for the ground floor basement was 3,200 sq. ft. There are two out buildings on the property, and she asked if they will be moved and to what part of the property will they be relocated, and if this is part of the application.

Mr. Antinozzi replied to the comment about the magnitude of the project exceeding what it should be, and he stated that the application falls within all regulations in terms of coverage for this zone. The propane tank is fully underground and there is no evidence of it above ground. Regarding the buffer and setbacks, the applicant has complied with the regulations on setbacks.

Regarding the footprint and square footage, Mr. Antinozzi informed the public that the first floor area is 3,300 sq. ft.; the entire square footage includes the 2nd floor (at 1,700 sq. ft.) for a total of 5,000 sq. ft.

The out buildings are clearly described on the plans as to the new location. They are out buildings and fall within the square footage that would make them accessory buildings. They are located such that they fall within the setbacks.

Dorothy Dytsky, 77 Crescent Circle, said she has several issues regarding the setbacks, sheds, decking, etc. At the last public hearing, a commissioner asked about possibly moving the propane tank and the applicant has not stated anything about moving the tank. She said the church parking lot abuts her property where much of the addition will be, and she has concerns about buffers, privacy, tree lines, etc. There needs to be some trees planted; the lights are still an issue; the parking lights are an issue; and these things need to be addressed.

Regarding the newspaper article on the square footage, Ms. Dytsky said she finds it interesting and concerning that the articles quoted 3,200 sq. ft., and to her this is sneaky because it is a larger addition, up to 5,300 sq. ft.

Rose Palmieri commented on the setbacks in the plan, and said there was a need for an increased in parking because of the addition. In looking at the plans, part of the driveway now goes into the setback area just like the propane tank. She said she has seen where the church has destroyed vegetation for sheds and the meditation pool, and she has concerns about building a 5,300 sq. ft. rectory. She restated that the bocci courts lights shine into her yard. She has no idea what the church's future plans are for the property which could further impact her, and wants nothing more disturbing the setbacks.

William Regan, 20 Inverness Court, addressed some of the light issues, and informed the commission and the public that the bocci court lights are not 50 ft. high; they are 12 ft. high and face the side of the bocci court, not the back. The light on the back of the church was put up because of vandalism, when 2 of the 3 flag poles were broken due to kids swinging on them, and climbing on the roof. The lights were out of necessity to prevent crime. The shade on the light was put on to reduce glare. He believes the lighting is a very over stated issue.

Regarding the square footage, Mr. Antinozzi pointed out that the 5,300 sq. ft. also includes the multi-purpose room and office for the church, so this is hardly a large rectory. With regard to comments on sheds, buffers, decking, propane tank, etc. these have all been addressed. He also commented on the fact that the church is showing evidence of trying to work with the neighbors, and if there are more issues, then people should come forward and speak with church representatives for a resolution.

Mr. Strollo asked about the propane tank, and if it can be put in the setback.

Ms. Murphy said they can put it in the setback because it is underground.

Regarding the sheds on the property, Ms. Murphy said if they are under 144 sq. ft. they can remain on the property.

An observation was made by Mr. Slocum that the applicant did not put out the press release on the square footage of the addition, and cannot take responsibility for mis-reporting facts. He noticed that some of the neighbors on Crescent Circle have substantial back yards with shorter front yards. He wondered if we are really dealing with something that cannot be resolved because noise has a tendency to jump and go up, and at this higher elevation, this is outside the control of the church.

Mr. Levy closed the public hearing.

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| 2. Resubdivision Application | PH 5/14/07 |
| <u>Marta Hanby Farb</u> | PH 6/22/07 |
| 355 Finch Avenue | MAD 8/15/07 |
| 2-lots | |
| | |
| 3. Special Permit Application | PH 5/14/07 |
| <u>Marta Hanby Farb</u> | PH 6/22/07 |
| 355 Finch Avenue | MAD 8/15/07 |
| Section 5.5 | |
| Rear Lot Access | |

Chris Conklin, Conklin & Soroka, represented the applicant, advising that this application received IWW approval in December 2005, and is now before the P&Z Commission. It is a 3 acre parcel, serviced by public water and sewers. The lot slopes up from the existing house to a barn, a crest and gently rolls off; it is surrounded by wetlands. The subdivision is the existing house with a rear lot and rear lot access way; the access way will be part of the front lot, not the rear lot. Both lots meet the setback requirements. Lot improvements include a driveway up the left hand side, sewer system approved by Chesprocott. The access way is about 200 ft. long and the driveway is another 100 ft. from that. Because of the wet lands, the driveway will not be paved, but will be a gravel driveway to reduce the impervious area on the lot. Not much grading is needed for this subdivision; the slope will be cut down slightly; and the lots will be at grade.

An outstanding issue before the Planning Department is the 0% runoff, and Mr. Conklin has talked to the town engineer. There will be negligible affect on anything, but the applicant will submit drainage calculations showing 0% runoff. The plans show a silt fence, soil testing, and standard details and noted.

Mr. Conklin read an excerpt from the IWW approval into the record.

Ms. Flynn-Harris stated that the public hearing will be held open, and she asked that Mr. Conklin submit a letter agreeing to an extension of the public hearing for the Farb application.

Public Comments

Laura Willhite, 940 Allen Avenue, asked that the subdivision application be denied. She lives on the land which is part of her family farm. Ms. Willhite gave a brief history of the farm and her family's life and love of the farm land since the 1800's. In 1994 she sold the Farbs the house and 3 acres of land so Ms. Farb could raise farm animals, but she did not know that Ms. Farb would want to build on the land. She feels betrayed by Ms. Farb wanting to now build on the land when it was sold to her to raise animals. Ms. Willhite asked that the application be denied.

Donna Willhite, co-owner of the farm, said she knows the history of the farm, and there are many wetlands. She has concerns about animals wandering onto here family's land; they have no place to go; and they look to the woods as a safe haven. Her children love this farm and she hopes it can stay. Someday she will live in the farm house and does not want to look out at someone's back yard.

Jim Willhite, co-owner of the farm property, expressed concern about pollutants and contaminants running into the wetlands and the Quinnipiac River which the public has worked hard to preserve. He said we must work in the direction of preservation, not pollution with fertilizers and pesticides, etc. He also asked for more time for the opposition to this application to get facts and ideas together and learn more about the drawings, etc.

Chair Flynn-Harris advised that this application will be continued to July, and people can visit the staff in the Planning Department and look at what has been filed.

Mr. Willhite read a letter into the record from Arnold Willhite, in opposition to the subdivision application. He also commented on the wild life becoming extinct in the area because of the loss of their habitat.

Janet Willhite, co-owner of the farm property and a Meriden CT resident, read a letter into the record on her original meeting with the Farbs and the purchase of the 3 acres for raising family animals on the last parcel of undeveloped land in West Cheshire. This farm is her family home, and where she has learned how fragile and powerful nature is. She asked that the subdivision application be denied because of its impact and effects on the wetlands.

Marta Farb, 355 Finch Avenue, stated to the commission that this application is based on necessity, not greed, and she resents that greed was suggested as her motivation. Over the years she became part of the Willhite family and her early memories of Laura Willhite are walking the beautiful land. For the record, Ms.

Farb stated that when she was shown the land by the real estate agent and Laura Willhite, and looked at the maps, Ms. Willhite pointed out specific areas in the woods (at a dog leg coming out Allen Avenue) as the possible future home sites of her sons. This is why she held onto this dog leg because a road would possible come out Allen Avenue. The Willhite family had suggested to her that they, themselves, would develop this land.

Ms. Farb did not have her real estate proposal from 1994 at the meeting, but said when she was interested in the property, the Willhite family was offering more than the 2 acres, and she wanted 3 acres to raise animals. She now finds it curious that this was not mentioned by the family members that for years she owned horses, sheep, goats, chickens, roosters, ducks, and raised these animals, and paid their vet bills. She fulfilled her goal of running a farm for many years, and provided a beautiful life for her children.

Ms. Farb stated that the Willhite family and the public know she is a staunch supporter of conservation of land in Cheshire, has served as chair of the Environment Commission and member for many years. At this time, Ms. Farb said she is before the P&Z Commission out of necessity, not greed.

In closing, Ms. Farb noted that after WWII, the Willhites began their life in 1945 and carved out part of a farm, the potato patch, and cleared trees, moved rocks, and had their parcel out of a farm. This was their land, and this was their right. She said she is only requesting fairness.

Mr. Conklin said this is a 3 acre parcel, and on the plans pointed out the closest house is far away from the Farb land. The property is surrounded by giant wet lands, and the IWW has approved the plan in terms of the wetlands. Grading will be minimum, there will be a gravel driveway, and Ms. Farb is not raping this piece of land.

Mr. Todisco asked about the map and the colored areas and what they depict.

On the plans, Mr. Conklin pointed out the existing house and barn, the location of the 2nd house on the plans, the driveway, and said there would be 50 feet of buffering from the wetlands. He pointed out the area to be cleared for the subdivision, and said there would be clearing of less than one-half of the lot. If the application is approved by the commission, there will be a plot plan presented, and the applicant must return to IWW.

For clarification, Ms. Murphy said that for subdivisions, IWW will view it as a subdivision, and give an approval for the division of the land, with stipulations if there are wetlands on the property. Once the house plans, driveway, septic systems, etc. are determined, the application must come back to IWW. Also, there is no guarantee that the IWW will approve the final plans.

Chair Flynn-Harris continued the Farb applications to July 9, 2007.

4. **Aquifer Permit Application** **PH 6/11/07**
TJM Environmental Restoration LLC **MAD 8/15/07**
300 East Johnson Avenue
Per Section 47.6
To construct industrial flex space.

Michael Joyce, P. E. Milone & MacBroom, represented the applicant, stating that the proposed site is a redevelopment of an existing parcel at 300 East Johnson Avenue, and is adjacent to the Whole Foods, Pet Spa, and McCausland Avenue. The site is an existing industrial development since 1962, and has had many manufacturing and industrial uses. In December 2004, demolition activities occurred on the property along with phase 1 and 2 environmental reports. Some remnants of the old use are still on the property including the driveway to the site.

The application is for industrial flex space development. Mr. Joyce explained that this consists of 15, 3,200 sq. ft. units, designed to be in accordance with the aquifer protection zone; they can be used for contractors with storage of equipment, office space, etc. There are 3 buildings, at the same elevation, simple in design with front entrances, overhead garage doors to the rear.

Access to the site is achieved from East Johnson Avenue; the driveway is being shifted to the left to gain proper distance on the road; the road is 30 ft. wide, with 24 ft. aisled and parking spaces. The individual uses for each unit have not yet been identified, but there will be criteria in place under the aquifer protection zone regulations, to guide the marketing and use of this development.

At the present time, the site drains to the east and southeast towards East Johnson Avenue. The old drainage system is somewhat functioning on site, collects drainage from the old parking area, and discharges to the neighbor to the east. As part of the applicant's plan, they are working to remove this condition. There will be collection of all on-site drainage, route it through detention water quality basin in the front of the property, and tie back into East Johnson Avenue. A full hydraulic analysis of the system indicates 0% runoff increase for all storms. The soils on the site are well drained, and this is good under the aquifer protection. Three feet of the bottom of the basin will be left open and vegetated with a wetland planting mix. The site will provide a benefit for ground water to recharge to the area.

Mr. Joyce reviewed the architectural design of the three buildings. On the plans it shows the middle or medium sized building on the site. The maximum height of the buildings will be 26 feet; there will be overhead garage doors for each unit on the back side of the building for contractor access; the business like entrance will be in the front of the building.

To the south there are two existing residential properties in the industrial zone, and to buffer the applicant's use, they will maintain the minimum setback distances. They will provide a 6 foot high fence, double row of evergreen plantings along the boundary of the residential homes, planting heights of 7 to 8 feet high. The rest of the site is vegetated. There are parking areas between the buildings to access each building; there is 1 space for each 1.5 employees, and it is expected there will be 3 employees per unit, and 1 visitor space. Each unit has a bathroom.

The fire department wants water service to increase to 12 inch mains.

The police department indicates no major concerns, but comments will be coming to the Planning Department.

On the revised plans there are elevation details.

The Beautification Committee gave approval for the landscaping and plantings.

Dominik Zackeo, LFR Environmental Management & Consulting Engineering, addressed the commission advising that a certified hazardous materials management report has been submitted. At this time it is unsure what the occupancy of the units will be, but this report lays out the types of operations that could fit into this operation, and still be approved by the aquifer protection regulations. This could be home improvement contractors, warehouse, etc. The report outlines the limitations of the aquifer regulations. The report includes some best management practice procedures; it outlines the typical raw material waste from these type of businesses, and this can change. The report has a means to communicate the aquifer protection requirements to the tenants, and a model agreement and best management practices plan has been developed (Appendix D). There will be a hazardous material management inspection 30 days after the tenant moves in, with a turn over report 10 days after the inspection. There is a requirement for the tenant to outline all the materials to be used on their site; there is a group of provisions to protect the aquifer; there is information about emergency response and equipment and maintenance provisions. The agreement must be signed by both the owner/operator and tenant.

Ms. Flynn-Harris asked that the agreement be filed with the Planning Office whenever there is a new tenant.

Mr. Zackeo said the applicant is agreeable to that condition, if that is what the commission wants done, and under the regulations the commission can require this to be done. The report, copy of the aquifer protection regulations, and agreement will be kept with the tenant and the owner, and the inspection report will be submitted.

Regarding an annual inspection by a hazardous materials manager, Mr. Ranando asked if this was included.

This was not included, and Mr. Zackeo said he included only the single inspection.

Mr. Ranando said that under Appendix D, it says there will be an annual inspection.

Regarding the number of parking spaces, Ms. Flynn-Harris asked about clarification on this issue; 61 spaces seems to be a lot for the number of employees at the location. There are 10 truck and trailer spaces provided, and she asked about trucks idling for long periods of time, refrigerator trucks on the site making noise.

Mr. Joyce said there will be no trucks idling or refrigerator trucks. There would be temporary storage for trucks or trailers to park on the site, i.e. truck which a tenant would not want to drive home every night. The parking requirements are 1 space for every 1.5 employee; and for this site this equates to 30 to 40 spaces. The applicant did not want to have fewer parking spaces and provided the larger number of spaces. As this development progresses, through phases, the parking areas could be implemented as specific users are identified. If necessary, the parking issue can be revisited and adjustments made.

With regard to tractor trailer parking, Mr. Strollo said the applicant has it 12'x35', and trailers are larger than this size and will not have enough room. He asked if there would be rentals to tractor trailer people.

There is no parking of trailers on site, and Mr. Joyce said it would be for tenant trucks, smaller in size (storage trailer) that they do not want to drive home. One bay is 3,200 s.f. with a bathroom. The overhead door is 10'x15'. And, a tenant could take up more than one unit, and this could be adjusted according to needs.

Mr. Strollo asked about a car dealer renting a unit, and storing cars in a unit.

This is a different use, and Mr. Zackeo said it is not permitted under the regulations, and the owner will not be marketing towards this type of operation.

Mr. Strollo asked about a car window tinting business or installation of car alarm businesses renting the units.

Mr. Zackeo said these type of operations could be permitted.

According to Mr. Zackeo, the lighting plan has been submitted; there will be full cutoff lighting; and minimum illumination will be maintained.

Mr. Strollo stated that this flexible space idea is a good one for a little manufacturing shop or small business. He has concerns about these businesses stacking things up outside their units, and does not want this to occur. He asked whether this would be made known to the Planning Department.

This could be identified for the Planning Department, and Mr. Joyce said that the operations, hours of operation, number of employees, nature of the business, would be identified and submitted to the town.

Mr. Levy asked if the applicant has any objection to conditions for approval to prohibit outside storage.

In response, Mr. Zackeo said this could be fine tuned for what is allowed for outside storage under the regulations.

Mr. Slocum asked if there would be a building done on speculation, or is it just planned to be marketed. He also asked for the time frame for the first building.

Mr. Joyce said the time line is for having a building up and running within a year, and being marketed. He is not sure which building would be constructed first, the smaller, middle size or larger one. He expects it would probably be the middle sized building.

Under Section 32.7.1, Ms. Flynn-Harris said there is a definition of outside storage, and it needs to be enclosed in industrial sites.

Ms. Flynn-Harris asked about remediation of the property which was identified, at one point, as being a super fund site.

Phase #1 and #2 environmental reports have been prepared; they were submitted for the record; and Mr. Joyce said they indicate there were no areas that exceeded industrial remediation standards. The site will be remediated per residential standards, which is a higher requirement than industrial standards.

RWA comments, #2, regarding drum filled with unknown material, and Ms. Flynn-Harris asked if this has been removed from the property.

Mr. Joyce said it will be removed per the remediation plan, which will include all RWA recommendations.

Ms. Murphy read staff comments into the record from the Town Engineer, 6/6/07; Fire Department 6/11/07; Planning Department 6/1/07 and RWA 6/11/07.

Mr. Kurtz asked about the dumpster on the site, and whether it will be enclosed.

It is possible there will be two dumpsters on site, and Mr. Joyce said they would be enclosed, and be in the rear of the property. Costs of the dumpsters would be shared as part of the rental costs.

There were no public comments or questions.

Chair Flynn-Harris closed the public hearing. This application goes to the Subdivision Subcommittee on June 18, 2007.

VI. ADJOURNMENT

MOTION by Mr. Kurtz; seconded by Mr. Ranando.

MOVED to adjourn the public hearing at 9:00 p.m.

VOTE The motion passed unanimously by those present.

Attest:

Marilyn W. Milton, Clerk