

PLANNING AND ZONING COMMISSION
TOWN OF DEEP RIVER, CONNECTICUT

Town Hall

174 Main Street

Deep River, Connecticut 06417

A **public hearing** of the *Deep River Planning and Zoning Commission* held on Thursday, January 15, 2015 at the Deep River Town Hall was called to order at 7:00 p.m. Members present: Leigh Balducci, David Basilone, Bruce Edgerton, Janet Edgerton, Jane Samuels, Tom Walsh, Ben Whalen, and Alternate Sara Denegre. Absent: Alternates William Burdick and Jonathan Kastner. Also present: Cathie Jefferson (Zoning Enforcement Officer) and Nancy Howard (Recording Secretary), Attorney Edward Cassella, Attorney Matthew Rosenthal, John Martucci, and Ronald Prisley.

PURPOSE: Continuation of public hearing to accept evidence for or against, written or oral, approval of Application #113, Application for Re-Subdivision by Ronald S. Prisley for property located at 164 Cedar Lake Road (Map 16, Lot 2-A).

A letter dated January 13, 2015 with a packet of material was received from Attorney Edward Cassella on January 14, 2015. Copies were available for Commission members.

Presentation by Applicant:

Attorney Edward Cassella from Cloutier & Cassella, Attorney for the Applicant, submitted the most recently revised map revised to December 9, 2014 which includes the fire tank plan and the letter dated December 19, 2014 from R.E. Leighton, Code Official (which has been received by the Commission). A copy of the plans for the fire tank were submitted. Attorney Cassella reviewed the plan identifying the parcel and the lot lines of the proposed lots. The Richardson Evans lot in the middle of the subject parcel was divided by the court as part of a dispute. Attorney Cassella noted that the current application is similar but different from the application in 2010. The fire tank is located on the front of the property for the benefit of the proposed house and the neighboring houses in the area. Attorney Cassella noted that he submitted a written request, dated January 13, 2015, for waivers of Section 7.3.1(d) of the Subdivision Regulations for stacking or nesting of rear lots, and of Section 7.3.1(g) which states that the maximum number of rear lots shall not exceed 30% of the total number of lots in any subdivision. Attorney Cassella reviewed the history of the parcel. The property was mostly owned by the Gaetanos and title was taken in two separate parcels. Attorney Cassella submitted for the record copies of two deeds in to the Gaetanos and compared the distances to the current parcel. After the lawsuit the middle lot was created with frontage on Cedar Lake Road. Mr. Prisley received approval a few years ago and built a house in the rear of the property. A mobile home is located on the front of the parcel. Attorney Cassella noted that Lot 2 with the existing house meets the Zoning Regulations. He noted that Lot 1 meets the width and depth. The 150 x 200 building rectangle is the issue for Lot 1. A piece was added in the rear of the property to Lot 1 which would meet the building rectangle. Attorney Cassella noted that he provided a copy of the subdivision plan for 20 Hemlock Drive which shows the building rectangle in the north of the property where the house is proposed, which is similar to the current proposal. Attorney Cassella noted that in the conclusion of the court decision in the denial of the 2010 application, the Judge was clear that the fire protection plan was required. The plaintiff did not challenge any of the other reasons for denial. The current application complies with the fire protection plan and it has been

approved by R.E. Leighton. Due to the 1988 lot split, the building rectangle does not fit in the front. The square in the back of the parcel is sufficient to meet the Zoning Regulations. As to the number of rear lots and percentage, Attorney Cassella noted that the Planning Commission is allowed to approve waivers. He noted that approval of the subdivision for development on the front portion of the property would have no impact on adjoining properties. The front lot meets the lot width and an interpretation is requested regarding the rectangle. Attorney Cassella noted that Section 7.3.1(d) pertaining to stacking is discretionary language. Commission Engineer Joseph Dillon has indicated that Lot 2 would be the third stacked lot. Attorney Cassella noted that the rear lot with the access already exists. The proposal is for development in the front with the second rear lot, which is the reason for the request for the waiver. Attorney Cassella noted that the applicant is agreeable to a condition of approval that no buildings would be constructed in the rear of the property. Attorney Cassella highlighted the outline of the two proposed lots for clear identification.

ZEO Jefferson noted that the concern is that what is being proposed is not correcting the situation, but creating the same situation and noted concern that the property will come back in the future to cut the piece in the back. Attorney Cassella noted that the applicant is agreeable that there would not be any development in the back of the property and would propose a conservation easement to the Town that it would remain open. As to the waiver of Section 7.3.1(g), maximum number of rear lots shall not exceed 30%, Attorney Cassella noted that the proposal will not have significant impact on adjacent properties. The parcel is unique and does not conflict with the Zoning Regulations. The fire tank in the front will increase the public health and safety.

John Martucci, Engineer for the applicant, stated that the well and septic systems meet the current health code.

Attorney Cassella stated that they would provide easements before filing of the mylars if the proposal is approved. He noted that the three impediments are the building rectangle and the two waivers for rear lot provision. He noted that the plan is consistent with the Plan of Conservation and Development and meets the standards set forth in the Subdivision Regulations. The intent is to not build on the back piece.

John Martucci noted that the design of the septic system has been approved to show that the lot is able to sustain a three or four bedroom house. The applicant worked with Mr. Leighton on the 30,000 gallon fire tank which has been approved. Jane Samuels inquired about the fire protection in the back of the parcel. Mr. Martucci noted that there will be no construction in the back. Janet Edgerton reviewed the conditions of approval from R.E. Leighton's letter of December 19, 2014. Attorney Cassella noted that Lot 1 is not a rear lot, only the rectangle is located in the back. He noted that the proposal shows that a house can be built in the front and the waiver is to establish Mr. Priskey's house as a rear lot, which has existing frontage.

ZEO Jefferson noted that the proposal is a re-subdivision because the middle lot was part of the original subdivision, which would then be one front lot and two rear lots. Attorney Cassella noted that the court ordered split may have been the free split, however, the waiver is still required because it is over 30%.

Jane Samuels noted concern regarding preventing building on the back piece. Attorney Cassella noted that a conservation easement stays with the land and would restrict that portion of land from being developed. He noted that the applicant would agree to a conservation easement as a condition of approval.

Ron Prisley noted that a letter was included in the package submitted by Attorney Cassella from Sebahat Kebeli, the closest neighbor at 166 Cedar Lake Road, in support of the proposal. The letter was read for the record. The abutting property owner list was reviewed by the Commission members.

Correspondence: Secretary J. Edgerton noted receipt of the following correspondence:

1. Email dated January 14, 2015 from Joseph Dillon of Nathan Jacobson & Associates indicating that comment #5 of his December 11, 2014 letter has been satisfied.
2. Memo dated 1/12/15 from ZEO Jefferson to Planning & Zoning Commission regarding review of Application #113.
3. Letter dated December 19, 2014 from R.E. Leighton, Code Official with approval with conditions of proposed fire protection.
4. Letter dated December 11, 2014 from Joseph Dillon of Nathan Jacobson & Associates with subdivision review.
5. Copies of Zoning Board of Appeals minutes and decision from 2006 regarding application for variance.

A motion was made by Bruce Edgerton and seconded by Jane Samuels to close the public hearing at 8:00 p.m. Voted Unanimously.

Respectfully submitted,
Nancy Howard
Recording Secretary