

*Town of Cheswold*  
1856



*State of Delaware*  
1787

**PLANNING COMMISSION  
MEETING MINUTES  
THURSDAY, NOVEMBER 9, 2023  
691 Main Street  
Cheswold, Delaware 19936**

***ATTENDANCE VIA ZOOM WAS AVAILABLE***

**Planning Commissioners In Attendance:**

**Mr. Stephen Williams – Chairperson  
Ms. Barbara Cooper Commissioner - via ZOOM  
Mr. Dave Naples - Commissioner - via ZOOM  
Mr. Michael Callender – Commissioner  
Ms. Kara Naples - Commissioner – via ZOOM**

**Also in Attendance:**

**Ms. Sam Callender, Town Land Use Administrator  
Ms. Alyssa Pruitt, Civil Designer – Mountain Consulting  
Mr. D.J. Shanahan, Owner – Culligan Water  
Mr. Kyle Burchard, P.E. – Mountain Consulting**

**MEETING OPENING:**

The meeting was called to order at 5:00p.m., by Chairperson Steve Williams, followed by a Salute to the Flag and a Moment of Silence.

**MEETING PROPERLY POSTED**

Chairperson Steve Williams acknowledged that the meeting had been properly posted.

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**ROLL CALL:**

Chairperson Steve Williams conducted a roll call, and it was acknowledged that a quorum of members were in attendance, and the meeting proceeded.

**AGENDA REVIEW:**

A call for a review of the agenda was made by Chairperson Steve Williams.

A motion was made by Commissioner Barbara Cooper to add a presentation prior to Old Business, from Ms. Frances Perry concerning a Veterans's Transitional Housing project being conducted at 82 Main St. With a second from Commissioner Mike Callender, the agenda was revised after the motion passed by an unanimous vote of the Commissioners.

**MINUTES REVIEW:**

Chairperson Steve Williams requested the Commissioners to review the minutes of the meeting of the previous month and to make a motion to accept as presented or provide notice of items requiring revisions.

A motion was made Commissioner Barbara Cooper to accept the minutes as presented and Commissioner Kara Naples provided a second to the motion. The following minutes passed with a unanimous roll call vote of the Commissioners:

Planning Commission Meeting  
October 12, 2023 Minutes

**NEW BUSINESS –**

**a. Application 2023-10-27-124**

- Preliminary Plan Review
- Culligan Water
- Address: 624 Main Street
- Map ID: 4-03-04600-01-0600-000
- Zoning Code = C-1 (*Neighborhood Commercial*)
- Acres = 3.8682

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NEW BUSINESS – “continued”

**a. Application 2023-10-27-124**

- Owner = DJ Shanahan
- Owner Representative = Troy Adams, P.E., Mountain Consulting, Inc.
- Engineering Representative = Aylssa Pruitt, Mountain Consulting, Inc.
- Water = Well
- Electricity = ?????
- Gas = ????
- Sewer = Kent County
- Request = 6,000 sq. ft. Storage Building; 9,714 sq. ft. Pavement

Chairperson Steve Williams presented the Application details as defined above to the attendees followed by Land Use Administrator Sam Callender who introduced Ms. Alyssa Pruitt of Mountain Consulting as the representative for Culligan Water; Mr. D.J. Shanahan the owner of Culligan Water and Mr. Kyle Burchard, P.E. – Mountain Consulting and also representing Culligan Water to the Planning Commission.

Ms. Pruitt asked was assured that the members of the Commission had a copy of the plot plan submitted with the application. She indicated that 9,714 square feet of new paving to accommodate ten, (10), parking spaces proposed to provide access to the proposed 6,000 square foot new pole building which will have openings at both ends to allow for drive through of vehicles to deliver and pick-up water. The building is to be detached from the existing main building located at 624 Main Street. It will have electricity, but it will not be equipped with bathrooms or other facilities. The new building will be slightly lower than the existing building and stormwater permissions are being reviewed by the Kent Conservation District and the Cheswold Town Engineer Thomas Wilkes, with a plan to have water escape down the side of the building into a swale and a very shallow basin. Everything outside the silt fence on the plan will remain as it exists.

Ms. Pruitt allowed for questions from the Commissioners and Commissioner Dave Naples asked for the rationale for having the new building detached from the existing building. Ms. Pruitt responded that it's easiest for construction, it's the preference of the property owner, and it's best for fire safety to keep them separate. Commission D. Naples asked if it is to stay under the fire regulations for sprinkler systems. Property Owner Shanahan responded no to the questions and added that the building is the standard size of buildings that he's constructed in other locations in Sussex County as well. And it happens to be the perfect size building for their needs and the standard size building for the pole building company with whom they work. Commissioner D. Naples asked if the construction will be wood and Mr. Shanahan answered that yes it will be, the poster beams are wood, but the inside will be insulated and all metal.

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**NEW BUSINESS** – “*continued*”

**a. Application 2023-10-27-124**

No one will be able to see any of the wood, even the inside will have metal sheathing once the insulation is added to the walls.

Chairperson Williams inquired about the potential change and/or disruption to the Main Street traffic pattern after the construction of the building and asked if the existing driveway will continue to be used. Ms. Pruitt responded yes, the existing driveway will be the only means of egress to and from both buildings. Chairperson Williams also asked for information on the types of vehicles to be used at the location, because the driveway is opposite the entrance to the Parkers Run Development. Mr. Shanahan confirmed that his fleet will contain the current panel trucks and maybe one tracker trailer per week. The foot traffic will remain the same and there will be two additional small bay bottle trucks, like a Coca Cola or Pepsi Cola truck. Land Use Administrator Callender interjected that she did not see the inclusion of a new building as a detriment to the traffic pattern unless the pick-up and delivery schedule currently being employed by Culligan Water changes significantly. At present the involved truck traffic occurs after 9 am and before 4 pm and does seem to interfere with business hour traffic or school bus traffic. Mr. Shanahan confirmed that the pick-up and delivery schedule will continue as it is currently in use, but if it becomes a concern, it can be adjusted to fit our needs.

Ms. Pruitt reiterated that the stormwater management plan was forwarded to Town Engineer Tom Wilkes earlier today and that he probably has not had an opportunity to review it. It has also been forwarded to the Kent Conservation District for approval. Mr. Shanahan asked for the timing of the reviews and it was explained by Commissioner Cooper and Mrs. T. Callender that both reviews can be done simultaneously, but, the Town Council will not approve a plan that has not been first approved by the Kent Conservation District. However, there is an opportunity for the Planning Commission to recommend a plan for approval by the Town Council contingent upon the approval of some element of the plan such as the plan meeting all the requirements of the review by the Town Engineer.

Based on the last statement made by Land Use Administrator Callender a motion was made by Chairperson Williams to recommend the Town Council to approve the Preliminary Plan contingent upon approval of the stormwater plan by the Kent Conservation District and all elements of the review by the Town Engineer be satisfactorily met. There was a duplicate second from Commissioner Cooper and K. Naples with Commissioner Cooper requesting clarification the Town Engineer’s remarks must be satisfied. The vote was 4 to 1 with Commissioner D. Naples voting NO and explaining that he did so because storage is not permitted in a C-1, (*Neighborhood Commercial*) Zone. With that statement, Commissioner Cooper recommended that the plan be tabled all Commissioners eventually agreed.

Mr. Shanahan asked Commissioner D. Naples if a difference would be made if the new building

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**NEW BUSINESS** – “continued”

**a. Application 2023-10-27-124**

were somehow attached to the existing building. He additionally stated that the building will be of two different types of construction. The existing building is of steel construction and the new building will be of wood girders. And doesn't even know if a pole building can be attached to a steel building.

Commissioner D. Naples stated that has some additional concerns. He serves as the Building Official for the Town of Cheswold, and he has some concerns about a 5B structure being so close to another structure. His biggest concern is that he cannot find anywhere in the Land Use Ordinance where a warehouse or storage environment is permitted in a C-1 Zone. He also said that he may think differently if it had been presented as an extension of an existing storage use, in an existing building, but that's not how it was presented, and he can only respond to how it was presented. So he can't respond as to what will make a difference, he can only respond to what was presented.

Mr. Shanahan stated that he was not interested in a re-zoning classification, and Commissioner D. Naples confirmed that warehousing and storage does only applies in I-1, (*Light Industrial*) and I-2, (*Heavy Industrial*), environments. Mr. Shanahan asked if that distinction was based on the size of the complex and Commissioner Naples responded that he did not know. Commissioner Cooper added the definition of I-1. Mr. Shanahan asked for the difference in his building operation and that of the Canteen which brings products in and then ships them out in smaller vehicles. Chairperson Williams responded that their operation is housed in one structure and Culligan is attempting to expand to two, (2), structures. (NOTE: The Canteen is no longer a business in Cheswold, the building is now owned by Serve Pro).

Mr. Shanahan asked if he and his constituents, Mr. Burchard, P.E., Ms. Pruitt, Design Specialist, and his pole building company find an alternative solution to the current pole building plan to maybe attach a pole building to the existing building, will it be something that the Commissioners will approve? Commissioner D. Naples responded that if an alternate plan is submitted, he will be willing to review it and the Commissioners should have the time to review it, according to the Land Use Ordinance. Without having an alternate plan or the time to review a suggestion of a change, he will not provide a response to that question. Mr. Shanahan clarified that he wants to know if he goes through the expense of making engineering changes to the plans will the Commission possibly approve the plan so that he doesn't waste money on trying to find solutions to the situation. Land Use Administrator Callender explained that there is the option of submitting what is known as a Concept Plan to the Commission and the Commissioners and Town Engineer will review it, and provide non-binding remarks to the applicant at which point they can make a decision as to whether to go forward with a Preliminary Plan. Ms. Pruitt asked if she could request a Zoning review from the Town Engineer to confirm that the warehouse/storage use is not permitted in the C-1 Zone.

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**NEW BUSINESS** – *“continued”*

**a. Application 2023-10-27-124**

Mrs. Callender responded that Ms. Pruitt is more than welcome to contact the Town of Engineer, however, she can verify the status for herself, by checking Article 7. Use Regulations of the Town’s Land Use Ordinance which is available on our Town’s website.

Mr. Shanahan indicated that he would meet with his team on the next day and Ms. Pruitt promised to send a meeting link.

A motion was made by Chairperson Williams to table discussion of Application 2023-10-27-124, until such time as the application is withdrawn or revised and re-submitted for review. Commissioner Barbara Cooper made a second to the motion and with no questions or expressed concerns, the motion passed by a unanimous roll call vote.

**b. Veteran’s Transitional Housing Program – Ms. Frances Perry**

Land Use Administrator Callender introduced Ms. Frances Perry and Ms. Elaine Lewis as administrator for a Veteran’s Traditional Housing Program=mt currently being conducted in a single family home, located at 82 Main Street, Map ID 3-03-04615-01-0200-000 and owned by Ms. Dorine Shipp, a former colonel in the U.S. Air Force. Ms. Perry is also a verteran and former Staff Sargent is U.S. Army. All ladies are involved in providing temporary housing for homeless veterans, along with other life skill services.

Ms. Perry and Ms. Lewis were given the opportunity to present their project to the Commissioners, which they had done the previous week, to the Town Council. Ms. Perry first provided the Commissioners with her background and then with documentation and information about the Veteran’s Transitional Housing Program. Those documents are on file in the Town Hall. Ms. Lewis concluded the presentation with information about the life skill classes that are provided to the veteran’s that are a part of the program.

The question and concern before the Commissioners was whether such a Housing Program could operate in a R-1, (Residential – One Family Old Town) Zone of Cheswold.

Commissioner D. Naples asked if Ms. Perry would characterize the Veteran’s organization as philanthropic and/or charitable? And Ms. Perry responded YES. He explained that the reason for the question was the delicacy and intricacy of the question

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**NEW BUSINESS** – *“continued”*

**b. Veteran’s Transitional Housing Program – Ms. Frances Perry**

being asked and that he spent many hours on this issue because one thing that the Commissioners have learned is that everything in Zoning Ordinances is not clear on everything and therefore the challenge is to try and make things fit if we can. So the reason he asked that specific question is because he checked their other property in the City of Dover and compared it to the uses in the zones of their Zoning Ordinance. And they have a slightly different zoning classification for that parcel in particular. Dover classifies it as RG-1, (*Residential General*), and Cheswold classifies it as R-1, (*Residential – Single Family*). RG-1 predominantly allows for single family detached dwellings. The RG-1 uses has a lot of other uses assigned to it, but it aligns a lot with the R-1 uses in Cheswold. But in Dover, there is one key difference, in Dover that philanthropic or charitable use is permissible as a use in RG-1. The struggle was with the definition of a family and it was decided that the current situation meets that definition. But there were question marks as to whether it is a rooming house or assimilates to a rooming house; is it a boarding house or any of those other uses that are prohibited in the R-1 zone. And it was decided that it does not meet the standards of a boarding or rooming house for Cheswold. The Land Use Ordinance does provide in Article 7-3 Interpretation of Uses that a use not specifically listed as permitted is prohibited in a zoning district is prohibited unless determined similar in accordance with Sub-section B below, which lists how to determine similar uses in Section B-b-c. The Land Use Administrator qualifies to make text amendments to the use table using qualifying questions specified in Article 7-3, which Commissioner Naples shared with the attendees. He believes that the requested use mirrors the use of a family; and the use does not violate any of the other requirements. It was agreed that there is no clear statement as to whether the requested use of this property as a transitional veterans housing project is permitted or prohibited, that the philanthropic and charitable language of the Dover Ordinance should be added to the single-family usage zones of the Cheswold Ordinance. This will separate for profit single-family boarding/rooming situations from philanthropic charitable use of a single-family homes.

With positive comments received from the other Commissioners, Commissioner Kara Naples made a motion to recommend approval of the Transitional Veteran’s Housing Program to the Town Council accompanied by an Ordinance to revise Article 7. Use Regulations of the Land Use Ordinance to include a philanthropic charitable use in

residential single-family zones. A second was provided by Commissioner M. Callender.

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**NEW BUSINESS** – *“continued”*

**a. Veteran’s Transitional Housing Program – Ms. Frances Perry**

The motion was passed by an unanimous vote of the Planning Commissioners.

**2. OLD BUSINESS** –

- a. Review of Revisions to Article 4. Administrative Procedures
  - i. Pages 8 – 14

Commissioner Williams made a motion to table this discussion until the next meeting and with a second from Commissioner Cooper and an unanimous roll call vote the motion passed.

**COMMENTS:**

Chairperson Williams then moved on to comments from the attendees:

- **TOWN ENGINEER’ S COMMENTS:** Excused

- **LAND USE ADMINISTRATOR COMMENTS:** Mrs. Callender expressed her sincere thanks and appreciation for the time, effort and support that Commissioner D. Naples expends to keep the Planning Commission focused and directed.

- **COMMISSIONER BARBARA COOPER:**  
Made a second to the comments of Mrs. Callender about Commissioner Naples and asked if anything can be done to expedite the sound quality of the meeting. Commissioner M. Callender responded that the Town owns an amplifier and it will be used at the next meeting.



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**COMMENTS:**

- **COMMISSIONER DAVE NAPLES:** - Thank you for all the kind words. I know a lot of this volunteer work does not give us the opportunity to give people good news. Barbara knows probably better than anyone on the building side that we strive to find solutions. If there is a way we can make something happen, we strive to do that, but we can't put people at risk. I wish I could have given good news to the water application, but I just couldn't make it square with the Land Use Ordinance. This one worked out, I wasn't so sure last time, when we spoke, but sometimes it's a good idea to sometimes look at other towns around us.

- **COMMISSIONER MIKE CALLENDER:** Acknowledged and agreed with the statements that were made about the support of Dave Naples. Reported that 179 Commerce is finally being torn down. The asbestos has been completed and the demolition is scheduled to start next week. Also, the pre-construction meeting for Alston's Walk was held last week and construction on the townhomes should begin in January, 2024.

Chairperson Williams asked about the status of the homes involved in the car accident and Commissioner Callender responded that one family is waiting on the insurance company of the driver and there is little information about the craft room that was hit.

- **COMMISSIONER KARA NAPLES:** Stated she was glad we were able to give some applicants good news tonight and happy with the solution that was found.

- **CHAIRPERSON STEVE WILLIAMS:** Wanted to give Dave praise too, because he was struggling with the reality that we are a small town and he doesn't want people to take advantage of that, and being a veteran and the fact that we can help is a great image for the Town.

NOTE: Ms. Callender had an afterthought about the Preliminary Plan that after some addition discussion was deemed not to be a feasible solution to the situation.

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**NEXT MEETING DATE:**

**Thursday – December 14, 2023; 5:00 p.m.**

**Meeting to be Held at:**

**Cheswold Town Hall - Commissioners and Applicants only**

- **ZOOM** will be available for all others

**MOTION to ADJOURN:**

A motion to adjourn was made by Commissioner Dave Naples at 6:22 p.m. A second to the motion was made by Commissioner Babara Cooper and a unanimous roll call vote passed the motion.

***Minutes Submitted by: Land Use Administrator Sam Callender – November 20, 2023***