

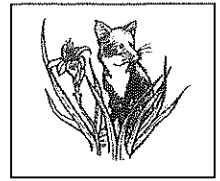


Town of Coventry

Land Use Office

1712 Main Street • Coventry, CT 06238

Planning • Zoning • Wetlands • Economic Development • Conservation
Phone: 860 742-4062 Fax: 860 742-4059 Web: coventryct.org



To: Zoning Board of Appeals

From: Emily Perko, Wetland Agent & Todd M. Penney, P.E. Town Engineer & Wetlands Agent

Re: 152 Cheney Lane

Date: 4 February 2020

The "Compilation Plan" prepared for Lynn Lynch by Andrew Bushnell, P.E. dated 1/20/2020 was reviewed with attention to the proposed wetland impact. The plan depicts very basic existing conditions of two homes and accessory structures on a single parcel with a private road on the western edge of the property leading to a shared/split driveway. Limits of wetlands on the subject parcel have been depicted from a map reference based on a wetland field delineation by Highland Soils LLC. In order to divide the lot as proposed the Coventry's Zoning Regulations require the applicant to depict the feasibility of individual access for each parcel.. The applicant is proposing the construction of ~1,200 ft. gravel driveway to "Proposed Lot 1" for said separate accesses. This gravel driveway proposes significant wetlands impacts:

- 250 linear feet of the gravel driveway through wetland complex
- 30 linear foot watercourse crossing
- 75-Foot Upland Review Area disturbances of the two above mentioned wetlands complexes plus two other wetland complexes. (~500LF of URA)

The activities depicted fall under the jurisdiction of the Coventry Inland Wetlands Agency. The proposed activities would be deemed a significant impact under Section 2.ff of their regulations and would require the applicant to examine feasible and prudent alternatives as per Section 7.5f of their regulations.

It would be our professional opinions the prudent alternative would be to keep the existing driveway conditions, which would result in no wetlands or watercourse impact. The wetland impacts associated with the proposed driveway are not the feasible alternative. A functions and values assessment of the wetland and watercourse with proposed mitigation would be required in addition to an engineered design that would properly handle storm water, erosion issues and further impact the wetlands/watercourse. While we cannot speak for the Inland Wetlands Agency directly, we feel that the proposed driveway would be a considerable wetland/watercourse impact and every alternative would need to be thoroughly examined.

If you have any further questions feel free to contact Emily at eperko@coventryct.org or (860) 742-4062.

Sincerely,



Emily Perko
Wetlands Agent
Town of Coventry



Todd M. Penney, P.E.
Town Engineer & Wetlands Agent
Town of Coventry

CC: Eric Trott, Town Planner; Inland Wetland Agency

ZEO MEMO

Variance Application #20-01Z

152 Cheney Lane – Lynn Lynch

This memorandum is meant to provide my interpretation of the regulations and background knowledge of the situation on Cheney Lane. Board members have the discretion to consider or disregard any section of this memo.

Cheney Lane is a private driveway located on 154 Cheney Lane currently owned by Lynn Lynch. Several lakefront properties were subdivided off the original property were deeded rights to utilize the driveway for their access. Today, the driveway is considered a non-conforming common driveway which has been treated more like a private road.

154 Cheney Lane has two dwellings on the property. The applicant has proposed to split the property so that each dwelling would sit on an individual lot, essentially making a more conforming situation. Splitting the property would require subdivision approval for the creation of a new rear lot. For the Planning and Zoning Commission to approve the new subdivision, it must comply with several zoning regulations, including *Section 4.03.03 rear Lot Standards and Criteria*. Subsection "b." states that the applicant must demonstrate that a driveway could be feasibility designed and constructed in the access way. Part of determining feasibility is by receiving a blessing from the Coventry Inland Wetlands Agency. Since the access way is subject to several wetlands and watercourses, it would be difficult (if not impossible) to show feasibility of constructing a driveway. The Inland Wetlands Agency is required by Statute to review feasible and prudent alternatives to the proposed disturbance. If one exists, they will not approve the disturbance activity. Thus, it would likely be difficult to show feasibility of constructing a new driveway in the access way. The Wetlands Agents, Emily and Todd, have provided a staff referral for your review of this application.

The intent of Section 4.03.03 (b.) is to protect against creating "garbage lots", which are lots that are land-locked with no practical use. It protects against the creation of new lots that are not in harmony with the environmental limits to growth and development. In addition, it protects the property owner by ensuring that the property can be accesses on their private property instead relying on access through an adjacent property. I believe that this regulation is meant more for land that is vacant and seeking development, rather than land that is already developed like 154 Cheney Lane.

It is worth noting that the subdivision of 154 Cheney Lane would create a more conforming situation since the two dwellings on the property would be placed on individual properties (since two separate dwellings on a single property is forbidden). There are no physical changes to the land with this application or noticeable differences to the neighborhood. The Planning and Zoning Commission will review the subdivision application and future use and maintenance of Cheney lane.

Respectfully,



Mark Landolina, Planning Technician/ZEO

[12-16-19
(- LYNCH -> A.A.)]

ROAD STATUS - SUB $\frac{1}{2}$ - CHENEY LA - PRIVATE ROAD -
NOT MAINT. BY VENDOR, OWNED BY LYNCH -

'FEASIBILITY' - NOT PRACTICAL TO INSTALL DRIVEWAY FROM
TMA ASBEST PERSPECTIVE - NOT SURE IT CAN BE PERMITTED

- 1 - ENG. DESIGN TO SHOW FEAS. - EVAL. -
- * 2 - VALUE - REMOVE NONCONF - IMPROVE.
CA - LA. SLIGHTLY
- 3 - BELIEVE 2 UNIT CONDO - UNITS 1, 2 -
NOT A'D FOR ZONING PURPOSES

- CGS 47-91f - STAT. DEFAULT - STANDARD CONTRACT FOR PRIVATE N.O.W.
(2014) - GUIDANCE FOR CHENEY LA? NO WRITTEN
AGREEMENT - IN FUTURE - COULD BE HELPFUL -

Re: 23 Cheney Ln. 11/8/20
1:30 pm

David H. Blackwell, Esq.
Attorney At Law

Blackwell & Spadaccini LLC
158 East Center Street
Manchester, CT 06040

860.432.0676
860.432.2926 FAX
DBlackwell@eastcenterlaw.com

Mark Landolina

From: Eric Trott
Sent: Monday, February 24, 2020 9:30 AM
To: 'Dan D'
Cc: Mark Landolina
Subject: RE: [EXTERNAL] Item #20-01Z

Good Morning – The matter that you are interested in is currently pending with the Zoning Board of Appeals, not the Planning and Zoning Commission. The ZBA reviews applications that request relief (variance) of the zoning regulations in certain circumstances where a 'hardship' is created by the application of a regulation. The subject proposal is to split the Lynch property into two lots – one for each residence on the premises, instead of two houses on one lot. The application seeks to vary a standard of the rear lot regulations that requires the demonstration of feasibility for the proposed driveway and access to one of the new lots being proposed. The applicant wishes to continue to utilize Cheney Lane as the access for both of the proposed lots. So, in reality, there will be no new driveway proposed in the access to the lot, if the variance is approved. Due to the presence of wetlands in the area where the driveway is proposed, it makes the design and construction of the driveway in the access infeasible.

Please see the responses to your questions below. Please contact Mark Landolina, our Planning Tech/Zoning Agent, who is staff to the ZBA, to review the file and get copies of materials if you wish. He is cc'd on this email. He can answer further questions on the project as well. Hope this helps in the meantime.

Thanks!

1. Can you provide me with a copy of the applicant's full proposal? **Yes, please reach out to Mark to view the file – he is cc'd above or can be reached at 860-742-4062.**
2. As an abutting property owner, what due process must be followed to submit any concerns or questions to your office and to the attention of the Planning and Zoning Commission? **You are welcome to attend the meeting and state your comments during the public hearing or can submit written comments for the Board to consider as well. You can also do both.**
3. The proposed access road is very close to my property line. What distance is permissible under current zoning ordinance or is a variance being sought by the applicant? **A driveway must be no less than 5' from a property line. But, as indicated above, no actual new driveway is proposed to be constructed.**
4. What recourse if any, do I have to oppose the applicant's proposal? **You can state your opposition on the record for the ZBA to consider. If the application is approved, you have the legal right to file an appeal of the decision with the Rockville Superior Court during the 15 day appeal period - after the legal notice of the decision is printed in the Willimantic Chronicle.**
5. What recourse if any, do I have if the applicant's proposal adversely effects my property value? **Same as #4.**
6. Is the applicant required to notify me via certified mail of every meeting specific to the applicant's proposal? **No, just the fact that the application is pending and a public hearing will occur on the matter. The matter is expected to be evaluated by the Board at the March 17 meeting.**

Eric Trott

From: Roberts, Richard P. <ROBERTS@halloransage.com>
Sent: Monday, December 16, 2019 11:01 AM
To: Eric Trott
Subject: [EXTERNAL] 47-42f

Sec. 47-42f. Maintenance of private easement or right-of-way. Costs. Action for specific performance or contribution. (a) As used in this section: (1) “Residential real property” has the same meaning as provided in section 20-325c, but does not include property owned by the state or any political subdivision thereof; (2) “benefited property” or “property that benefits” includes residential real property burdened by an easement or right-of-way, the owner of which residential real property uses such easement or right-of-way; and (3) “easement” or “right-of-way” means a private appurtenant easement or right-of-way.

(b) The owner of any residential real property that benefits from an easement or right-of-way, the purpose of which is to provide access to such residential real property, shall be responsible for the cost of maintaining such easement or right-of-way in good repair and the cost of repairing or restoring any damaged portion of such easement or right-of-way. Such maintenance shall include, but not be limited to, the removal of snow from such easement or right-of-way.

(c) If more than one residential real property benefits from such easement or right-of-way, the cost of maintaining and repairing or restoring such easement or right-of-way shall be shared by each owner of a benefited property, pursuant to the terms of any enforceable written agreement entered into for such purpose. In the absence of such agreement, the cost of maintaining and repairing or restoring such easement or right-of-way shall be shared by each owner of a benefited property in proportion to the benefit received by each such property.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, any owner of a benefited property who directly or indirectly damages any portion of the easement or right-of-way shall be solely responsible for repairing or restoring the portion damaged by such owner.

(e) If any owner of a benefited property refuses to repair or restore a damaged portion of an easement or right-of-way in accordance with subsection (d) of this section, or fails, after a demand in writing, to pay such owner's proportion of the cost of maintaining or repairing or restoring such easement or right-of-way in accordance with subsection (c) of this section, an action for specific performance or contribution may be brought in the Superior Court against such owner by other owners of benefited properties, either jointly or severally.

(f) In the event of any conflict between the provisions of this section and an agreement described in subsection (c) of this section, the terms of the agreement shall control.

RESPONSES TO:

Eric Trott

To: 'Roberts, Richard P.'
Subject: next week's meeting info
Attachments: 20191114163250157.pdf

Hi Rich – Just following up on some background regarding the subject of next Tuesday's meeting in Coventry. Attached is map, which has the subject parcel outlined. It is a large lakefront parcel with two residences on it – big house/little cottage. The owner (Lynch) of the property wants to subdivide the property to separate the two dwellings. Lynch needs to get a lot line modification with an abutter to address the pinch point near 33 Cheney Lane in order to facilitate two potential rear lots. But, they would not actually use the accessways of the rear lots as driveway, they would continue to use Cheney Lane.

Lynch also owns Cheney Lane, which is a private, substandard road that serves the other cottages/dwellings along the shoreline.

Todd, Mark and I met with Lynch's designer and we raised the issue of the existing access (Cheney Lane) and discussed the potential of creating a solution that would address the long term needs of the residents on Cheney Lane from a public health, safety and welfare perspective. I don't believe that the Town wants to own the road because of the problems that exist with it. But, we are looking for some potential solutions to even partially address the matter. The condition and use of Cheney Lane will likely be raised as an issue by the residents who use Cheney Lane when the application comes to PZC. We hope to have a game plan in action or some options to consider.

Hope this helps – please let me know if you have any questions.

Todd – please feel free to add any other details that you may have to help paint the picture for Rich.

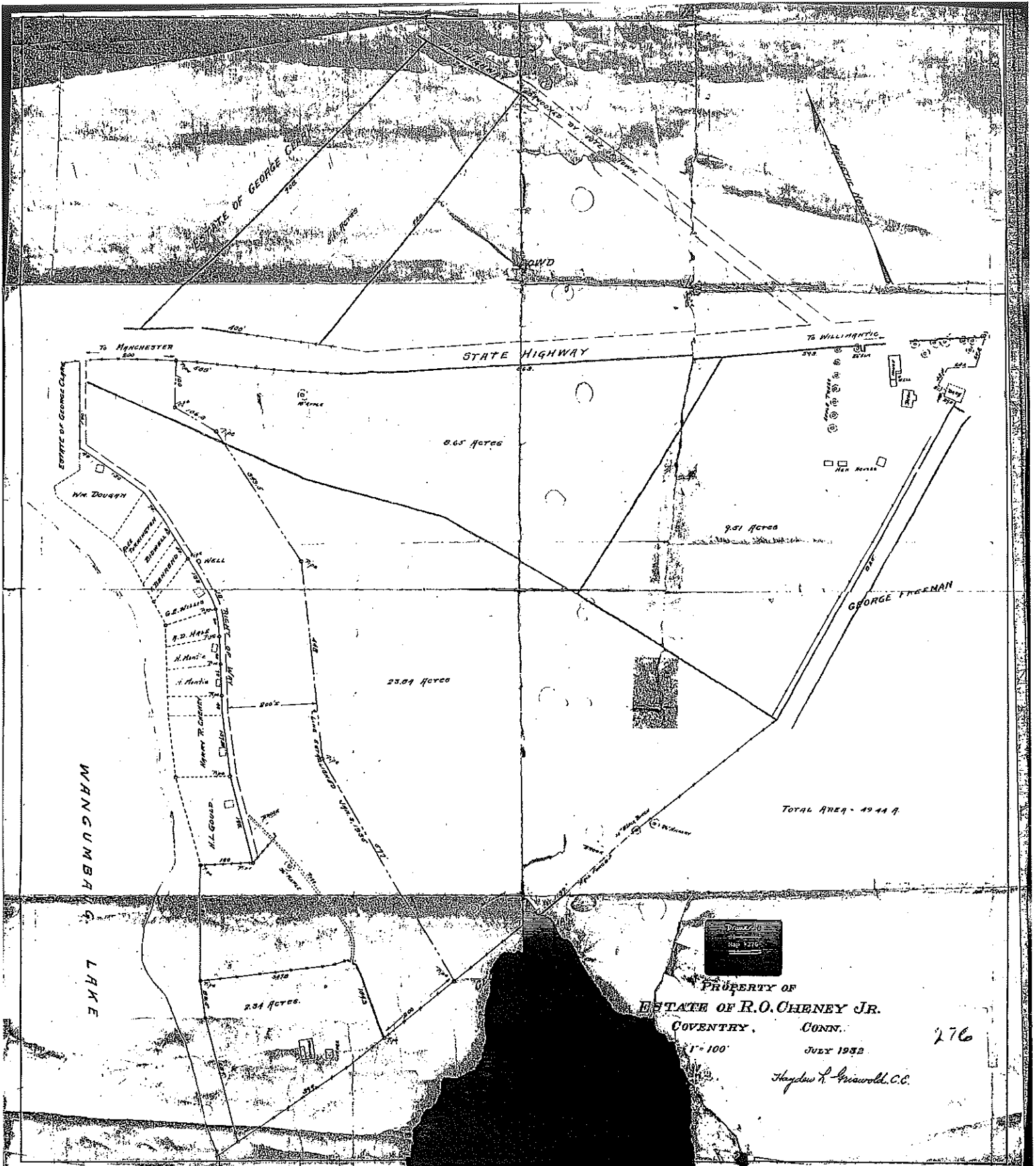
Thanks!


Eric M. Trott

Coventry Director of Planning and Development
(860) 742-4062

[10.23.19
LYNCHA - COTNEY LA.] (TR, ET, MR, AB)

- LL MUD - CIBIT / LYNCHA - SWAMP OF LAND
- 23 COTNEY LA - NATURE CONFORMITY
- LYNCHA GETS SD TO CREATE FUTURE SUB! -
SEPARATE COTTAGE / HOUSE
- COTNEY LAVE ~~ADJACENT~~ ROAD - ISSUE - WIDEN
ROAD - PARK SAFETY CONCERNS
- 4.03.03 - 6 - DRAINAGE DESIGN / CONSTRUCTION
- 'FEASIBILITY' - BY MA? - OPINION - NOT UNUSUAL
FEASIBLE TO REVIEW DRAINAGE IN REMOVED A.O.W -
- BALANCE FORM NONCONFORMITY - 2 HOUSES
ON 1 LOT, 41805 LOT CONFORMITY - NO NEW
CONSTRUCTION -
- INVOLVE MA ROBERTS - ASSOCIATE, OPINION
- NEW COTNEY MTR -




 PROPERTY OF
 ESTATE OF R.O. CHENEY JR.
 COVENTRY, CONN.
 JULY 1932
 1" = 100'
 Hayden L. Pinawold, C.E.

276

Cheney Lane Meeting 11/19/2019

both lots need a feasible access way, even if there will be a common driveway

Q: Would this process involve a waiver from PZC or a Variance from ZSA to waive the feasible driveway regulations?

• If we went forward with this reg. who determines if its feasible, if wetlands says not, then PZC can't say it is, correct?

• If both wetlands and PZC determine a proposed design is feasible, does this mean it is allowed? If someone really wants to they can even though wetlands may not approve it or where off Cheney Lane was determined as legal access

For the new subdivision, does this access have to be brought up to standards with current regs? Are the other properties involved, does this change their access?