

TOWN OF OXFORD

PLANNING & ZONING COMMISSION

S.B. Church Memorial Town Hall

486 Oxford Road, Oxford, Connecticut 06478-1298

www.Oxford-CT.gov



Regular Meeting Minutes

Tuesday, August 21, 2018

7:30 PM

Main Meeting Room

S.B. Church Memorial Town Hall

CALL TO ORDER

Chairman Jeff Luff called the meeting to order at 7:33 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present:

Greg Wanamaker
Pete Zbras
Jeff Luff
Pat Cocchiarella
Dan Wall
Tanya Carver

Not Present:

Arnie Jensen
Bob Costigan

Staff Present:

Steven S. Macary, ZEO
Peter Olson, Land Use Counsel
Jessica Pennell

SEATING OF ALTERNATES

Chairman Jeff Luff seated Alternate Commissioner Greg Wanamaker.

CORRESPONDENCE:

Commission Secretary Pat Cocchiarella noted the following correspondence for the record and stated that it is on file in the Planning & Zoning Department during regular business hours.

- a. Memorandum from the Selectmen's Office dated 8/7/18
Re: Annual Report
- b. Letter to Attorney Olson from First Selectmen Temple dated 8/16/18.
Re: Garden Homes Settlement Agreement

AUDIENCE OF CITIZENS

(Items not listed on the Regular Meeting Agenda)

NEW BUSINESS

OLD BUSINESS

1. Z-18-207 [IND] Hurley Road, "Oxford Commons"

Owner: Third Garden Park LTD Partnership, 29 Knapp Street, Stamford, CT

Applicant: Steven Trinkaus, P.E. 114 Hunters Ridge Road, Southbury, CT

Application: (Site Plan Modification)

Commissioner John Kerwin noted that he listened to the audio recording for this hearing.

Commissioner Dan Wall also noted that he listened to the audio recording for this hearing.

MOTION BY Commission Secretary Pat Cocchiarella:

The Oxford Planning and Zoning Commission has received an application for a Site Plan Modification for "Oxford Commons". The modifications include; 1) replacing graded slopes with gabion retaining walls, and 2) replacing the paved court with a Community Clubhouse.

Information on the application was submitted, along with supporting documentation, and is on file in the Planning & Zoning Department, 486 Oxford Road, Oxford, Connecticut, 06478.

The following plans have been considered in this decision:

"Oxford Commons" – Hurley Road, Sheet 2 of 27, last revised on 5/11/18 and prepared by Trinkaus Engineering, LLC, 114 Hunter's Ridge Road, Southbury, Connecticut, 06488.

- The application conforms to all requirements of the Oxford Zoning Regulations.

The application is approved, subject to the following conditions:

1. Compliance with all Town of Oxford Regulations and Ordinances in effect as of this date.
2. Compliance with the Settlement Agreement approved by Planning & Zoning on 1/2/18.
3. No substitute material shall be used without approval of the Planning and Zoning Commission and the Planning and Zoning Commission Engineer.
4. The applicant will be required to pay all costs of special consultants or studies as deemed necessary by the Commission at any time during the period from initial review through inspection and final acceptance of any improvements.
5. The applicant and their assigns must comply with all representations made at Planning and Zoning Commission meetings regarding this application.
6. The applicant shall submit one full size paper copy of the set of plans, as well as one sealed Mylar map, which reflect these conditions of approval. Conditions are to be printed directly on the revised map and Mylar.

7. If deemed necessary, a bond shall be posted in an amount reviewed and determined by the PZC Engineer, in a form acceptable to Town Counsel, and installed by the applicant.
8. The specific modifications of this site plan shall be limited to those designated on the "Statement of Use" dated 6/15/18 and submitted by the applicant.
9. The applicant shall have a pre-construction meeting with appropriate Town Staff prior to any construction activities.
10. Sedimentation and erosion control measures on-site shall be maintained in compliance with the proposed site plan and current guidelines, subject to field review by the PZC Engineer.
11. It is the responsibility of the owner/applicant to ensure capability of communication with the Fire Department and EMS. If the requirement is not fulfilled, it is the responsibility of the owner/applicant to rectify the problem.
12. The "Community Building" must be deemed a non-residential building, and shall be labeled as such on the revised plans and sealed Mylar submitted to the Planning & Zoning Department.
13. Any lighting installed by the applicant must be dark sky compliant.
14. The applicant shall comply with all recommendations/suggestions of PZC Engineer, James Galligan, as described in his letter to the Planning & Zoning Commission, dated 7/12/18.
15. Site Plan approval expires if the work is not completed within five (5) years from the date of approval.

Second by Commissioner Tanya Carver.

Commissioners discussed the motion and made amendments.

Commission Secretary Pat Cocchiarella accepted the amendments to the motion.

Commissioner Tanya Carver seconded the amendments to the motion.

All (6) Ayes.

Final vote on amended motion.

All (6) Ayes.

Motion passed unanimously.

The effective date of approval is 8/21/2018.

2. Z-18-170 [RESA] – 25 Lisa Drive (Map: 18 Block: 29 Lot: 21A) – "Moose Hill Acres"

Owner: Stephen Bellis, 121 Lane Street, Shelton, Connecticut

Applicant: Stephen Bellis, 121 Lane Street, Shelton, Connecticut

Application: Re-subdivision of Lot 3 Moose Hill Acres (2 Lots)

Chairman Jeff Luff explained that Peter Olson, Land Use Counsel drafted a resolution.

Jessica Pennell noted that correspondence received through staff stated that the applicant would like to dedicate open space rather than pay the fee in lieu of open space.

Commission Secretary Pat Cocchiarella questioned the requirements for open space, he noted that one

requirement is that it be accessible by the public. He questioned if it ties into any other existing open space.

Chairman Jeff Luff noted that they have to donate 20% of the acreage to open space.

Commissioner John Kerwin referred to Article 8, Section 1 of the Subdivision Regulations. He stated that the requirement in the regulations is imposed by CGS §8-25. He went on to discuss the statute as well as read excerpts from the statute referring to how the amount for payment in lieu of is calculated and that it goes into a special fund.

Chairman Jeff Luff commented that the Commission can determine what the value of the property is without an approval.

Commissioner John Kerwin disagreed, and went onto explain how the amount is determined, that it is governed by the statute.

A lengthy discussion ensued regarding the process used to value a property before a payment in lieu of open space is determined. References were made to CGS §8-25a and §8-25b.

Jessica Pennell presented an email from the applicant, who through staff, expressed their willingness to convey 2.04 acres of open space, which is 20% of the 10.2 acre parcel.

Commission Secretary Pat Cocchiarella read the email presented by staff.

Discussion ensued regarding open space regulations and conservation easements.

MOTION BY Commission Secretary Pat Cocchiarella:

WHEREAS, The Oxford Planning and Zoning Commission received the Application for Moose Hill Acres.

WHEREAS, the public hearing for this application was legally noticed, in conformance with Connecticut State Statutes and the Zoning Regulations of the Town of Oxford.

WHEREAS, The Oxford Planning and Zoning Commission has considered the testimony presented at public hearings, held on 5/30/18, 6/19/18 and 7/17/18, and members of the public.

WHEREAS, information on the application was submitted, along with supporting information on file in the Planning Office of the Town of Oxford:

WHEREAS, the following plans have been considered in this decision:

- Application dated March 29, 2018,
- Record Subdivision Map, Resubdivision, Lot 3, Moose Hill Acres.

BE IT RESOLVED, that based upon the application and testimony, this application is approved, for the following reasons:

1. The Commission finds that, in accordance with **Article 8, Section 2** of the Subdivision regulations that it is appropriate to accept the offer of the applicant to accept a payment in-lieu of the dedication of open space within this subdivision or to dedicate open space to the Town.

2. The application is in conformance with the Oxford Subdivision Regulations.
3. The application is in conformance with the Oxford Zoning Regulations.

Subject to the following special conditions:

1. The re-subdivision mylar shall include notations (in the notes and in the vicinity of the road) that:
 - a. Old Moose Hill Road is not an accepted Town Road, and is not owned by the Town of Oxford, but is an unaccepted, unimproved paper road.
 - b. The Town of Oxford offers no services to that paper road known as Old Moose Hill Road.

Subject to the following standard conditions:

2. Compliance with Oxford Subdivision Regulations as of this date.
3. Last revised final plans and the mylar showing all necessary changes must be approved by Planning and Zoning Engineer.
4. A 1" to 200' mylar of the record subdivision map be presented to the Town Assessor, as approved by the Oxford Planning and Zoning Commission.
5. An "Auto CAD.DXF" formatted CD of the record subdivision map be presented to the Commission.
6. The applicant and their assigns must comply with all representation made at Planning and Zoning Commission meetings or at public hearings regarding this application.
7. Subdivision expires after five years from date of filing record subdivision map if improvements have not been completed.
8. In accordance with **Article 4, Section 3** of the Subdivision Regulations the applicant will be required to pay all costs of special consultants or studies as deemed necessary by the Commission at any time during the period from initial review through inspection and final acceptance of any improvements.
9. Compliance with all Town of Oxford Ordinances in effect as of this date.
10. Payment of a security in an amount established by the Planning and Zoning Engineer, in a form approved by the Town Counsel.
11. Letter from Licensed Land surveyor stating that all pins and monuments have been set as indicated on maps.

12. No substitute material shall be used without approval of the Planning and Zoning Commission and the Planning and Zoning Commission Engineer.
13. No burying of stumps, debris or any other material. A report or receipt must be provided indicating proper stump removal.
14. Applicant shall contact Zoning Enforcement Officer and Town Engineer to schedule a pre-construction meeting prior to any activity on site.
15. Three copies of the revised plans, amended in accordance with this motion shall be presented for review by the Town Attorney, Zoning Enforcement Officer, Town Planner, Town Engineer and any other required by the Planning and Zoning Commission, to the Planning and Zoning Office.
16. The Commission finds that the acceptance of payment of a fee in-lieu of dedication of open space in accordance with Article 8 Section 2 of the Oxford subdivision regulations of \$7,000 per lot is acceptable, and the payment of a total of \$21,000 for the creation of three building lots is required in accordance with the Subdivision Regulations of the Town of Oxford and Section 8-23 of the Connecticut General Statutes.

Second by Commissioner John Kerwin.

Commission Discussion:

Commission Secretary Pat Cocchiarella stated that Condition #16 could be deleted.

Chairman Jeff Luff stated that they could leave it in and and take out the dollar amount and replace it with the 2.4 acres.

Commissioner John Kerwin suggested the following language:

The Commission finds, that in its judgement, the need for open space generated by this development, considering such factors as population density, location or adequacy and pursuant to Article 8, Section 1, the owner shall dedicate by way of legal transfer, 20% of the gross area, the total property, specifically, 2.4 acres of approximately 10.2 total acreage.

Chairman Jeff Luff added "in accordance with the Subdivision Regulations, Town of Oxford, and CGS § 8-25."

Alternate Commissioner Greg Wanamaker questiond the special condition on page 2, that refers to "sharing maintenance." He noted that it is stated in special condition #1 that the Town has not accepted Old Moose Hill Road and offers no services for the road. The two conditions are conflicting.

Chairman Jeff Luff explained that “sharing maintenance” refers to the property owners on Old Moose Hill Road.

Commissioner John Kerwin noted that this item has been a concern of his in previous discussion about the status of the road.

Commissioner John Kerwin noted that the sharing he had previously referenced to was pursuant to Article 6, Section 6 of the Subdivision regulations which says that the maintenance has to be between the property owners, and that they have to agree to sharing the maintenance and costs per a restrictive covenant.

Chairman Jeff Luff explained that he asked Peter Olson, Land Use Counsel if the resolution that he prepared separates the Planning & Zoning Commission from the Board of Selectmen’s decision on the status of the road. He also noted that he asked Peter Olson that he wanted it clear that Planning & Zoning does not determine the status of the road (public or private). He asked to have it in the resolution to protect the Commission.

Commissioner John Kerwin explained that he spoke to Kevin Condon, Town Counsel and he tried to convey to him that Planning & Zoning does not decide what a road is and unless it is a dedicated road, its not a road and it is not a paper road, it is a private right of way. He noted that in the law, there is no such thing as a paper road.

Commissioner John Kerwin reiterated that it is a private right of way because it was never accepted or dedicated by the Town, there is no legal affect because there is no such thing as a paper road.

Chairman Jeff Luff stated that argument would be with the applicant and the Board of Selectmen.

Commissioner John Kerwin explained that there are three ways this goes, either the owner asked the road to be accepted by the Town, in that case he would have to go to court and sue the Town.

Chairman Jeff Luff stated that he wants any legal issues with the road to go to the Board of Selectmen, not Planning & Zoning. He questioned how the Commission can clairify the resolution to accomplish the

Commissioner John Kerwin suggested that the Commission stated that on page 2 of the resolution they can amend 1. (a.) to stated that Old Moose Hill Road is not an accepted Town road and not owned by the Town of Oxford.

Chairman Jeff Luff retiterated that it is a paper road.

Commissioner John Kerwin stated that it is not a paper road, it is a private right of way.

Chairman Jeff Luff stated that Kevin Condon, Town Counsel identified Old Moose Hill Road as paper road, and the Commission will be going against his determination. That would cause it to come back to Planning & Zoning because they are changing what was under the Board of Selectmen’s purview.

Commissioner John Kerwin stated that there is no such thing as an unimproved paper road. He explained that Kevin Condon doesn't determine what a roadway is, there is a statute that applies.

Chairman Jeff Luff stated he is trying to push this off P&Z and onto the Board of Selectmen, if there is a battle, Kevin Condon and the BOS can fight it.

Commissioner John Kerwin stated that there is no forum for the applicant to fight that battle, if we say it's a private road, or private right of way, it isn't like it goes back to the Board of Selectmen. Unless the applicant requests that the Town accept it as a town road.

Commissioner John Kerwin noted that the sharing of maintenance comes under the restrictive covenant, under Article 6, Section 1, it states that all the lots shall be serviced by a roadway that meets the standards of a town roadway and Old Moose Hill Road does not meet those standards. Therefore, the issue is covered under Section 6, which refers to private roads and the requirements under that section.

Chairman Jeff Luff expressed concern with overriding Peter Olson, Land Use Counsel's resolution.

Chairman Jeff Luff stated that he doesn't want to change anything that has been submitted or determined by Kevin Condon or Peter Olson because they were asked to consider all the concerns identified by the Commission and to protect the Commission.

Commission Secretary Pat Cocchiarella requested permission of the Chairman to withdraw his motion. **Chairman Jeff Luff** accepted the withdrawal of the motion.

All (6) Ayes. (On the withdrawal of the motion)
Motion passed unanimously.

ZONING ENFORCEMENT

1. **Mylar for Lot 5B Commerce Drive** – review and authorize Chairman and Commission Secretary to sign for filing.

Chairman Jeff Luff and **Commission Secretary Pat Cocchiarella** signed the mylar.

2. Progress update of property located at 241 Oxford Road.

Steven S. Macary, ZEO stated that he has not seen improvement on this property. He will go with one or two Commissioners to visit the property before the next meeting.

Steven S. Macary, ZEO also noted a problem with bamboo on Coppermine Road.

Commissioner Pete Zbras brought up safety concerns regarding signs that are causing site line issues on Route 67.

APPROVAL OF MINUTES

MOTION BY Commissioner Tanya Carver to table the following minutes:

1. 7/11/18 – Meeting Minutes
2. 8/7/18 – Meeting Minutes

Second by Commissioner Pete Zbras.

All (6) Ayes.

Motion passed unanimously.

INVOICES

1. Nafis & Young Invoices

- a. **MOTION BY Commissioner Tanya Carver** to approve Invoice #178-18 (Garden Homes Site Plan Modification). **Second by Commissioner Pete Zbras.**

All (6) Ayes.

Motion passed unanimously.

- b. **MOTION BY Commissioner Tanya Carver** to approve Invoice #179-18 (Lot 5B Commerce Drive Site Plan). **Second by Commissioner Pete Zbras.**

All (6) Ayes.

Motion passed unanimously.

OTHER BUSINESS

1. Discussion/Regulations Updates.

Steven S. Macary, ZEO, Commission Secretary Pat Cocchiarella and Commissioner Pete Zbras have begun work on the regulations. The Commissioners discussed this briefly, there is no specific detail at this time, they are only in the beginning stages of the project.

2. Any other business the Commission deems necessary for discussion.

Chairman Jeff Luff noted that he purchased a decibel meter for the department.

3. REMINDER: Public Hearing for the POCD is on 9/4/18.

ADJOURNMENT

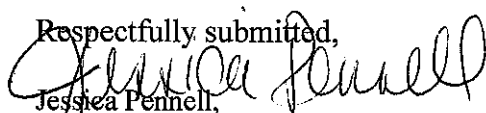
MOTION BY Commissioner Tanya Carver to adjourn the meeting at 9:00 PM.

Second by Commissioner Pete Zbras.

All (6) Ayes.

Motion passed unanimously.

Respectfully submitted,



Jessica Pennell,

P&Z Coordinator

Planning & Zoning Commission

18 SEP 13 AM 9:41
TOWN OF OXFORD, CT
TOWN CLERK
Approved by Clerk