



TOWN OF OXFORD

S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut 06478-1298
www.Oxford-CT.gov

Planning & Zoning Commission

SPECIAL MEETING MINUTES

Tuesday, January 2, 2018 at 7:00 PM
Main Meeting Room
S.B. Church Memorial Town Hall

CALL TO ORDER

Chairman Jeff Luff called the meeting to order at 7:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: John Kerwin, Pete Zbras, Arnie Jensen, Jeff Luff, Pat Cocchiarella, and Dan Wall
(arrived at 7:08 PM).

Not Present: Bob Costigan, Tanya Carver and Harold Cosgrove.

Also Present: Steven S. Macary, ZEO, Jessica Pennell and Land Use Counsel, Peter Olson.

SEATING OF ALTERNATES

Chairman Jeff Luff seated Commission Alternate John Kerwin for Commissioner Tanya Carver.

ITEM: Third Garden Park, LLP/Garden Homes Management Corporation, Hurley Road,
Application No. Z-14-012.

Consideration of settlement agreement and revised site development plans, pursuant to Practice Book §14-7A. Garden Homes Management Corporation et al. vs Planning & Zoning Commission of the Town of Oxford, Docket # HHD-CV-14-6052002-S.

Public comment may be received.

The settlement of this appeal is subject to judicial approval pursuant to CGS §8-8n at a hearing by the court, to be scheduled at a future date.

The draft settlement agreement and revised settlement plans are on file in the Planning & Zoning Department.

Peter Olson, Land Use Counsel for the Commission gave a brief outline of what has transpired over the past several months as well as process going forward regarding the Settlement. He noted the following for the Commission:

1. The Commission approve a settlement of the administrative appeal entitled Garden Homes Management Corporation v. Planning & Zoning Commission of the Town of Oxford, which appeal was heard in judicial district of Hartford at Hartford under docket number HHD-CV 14 6052002 S;
2. The Chair of the Commission is authorized to sign the Settlement Agreement presented to and reviewed by the Commission as part of a public meeting pursuant to Practice Book § 14-7A;
3. The Commission's legal counsel is authorized to make minor adjustments to the Settlement Agreement as required to conform to the procedural requirements for approval. Counsel shall return to the Commission for approval of substantive revision.
4. The Commission's legal counsel is authorized to secure approval of the settlement by the Court, as required General Statutes § 8-8n;
5. Notice of this decision shall be published in a newspaper of general circulation in the Town of Oxford.

He stated that the Settlement and revised maps are on file in the Planning & Zoning Department.

Chairman Jeff Luff asked if there were any comments from the public.

Shane Evans, 6 Pope Road stated that he is new to town; he questioned where they are entering from.

Attorney Peter Olson gave a brief chronological explanation of the Garden Homes application and litigation and stated that the case has been in court for approximately 12 years. He stated that the entrance to the development is on Hurley Road; however, as part of the settlement agreement, the Commission has agreed to work with the applicant to secure a second access from Airport Access Road.

Shane Evans stated there would still be an entrance on Hurley.

Attorney Olson stated that there would still be an entrance on Hurley. He explained that when you are dealing with large developments, it is very important to have two accesses. He noted that emergency services feels it is very important to have to access points in case one entrance is blocked. He stated that the Commission denied the application repeatedly because of the issue of the second access. He commented that it has taken the Commission a long time to get where they are today, and will hopefully end up with a second access. He noted that the court rejected the denial of the application based on the reason that there was not a second access.

Shane Evans, 6 Pope Road questioned what affect this development would have on his property values.

Attorney Olson stated that this is an affordable housing application, and that has a different legal standard for the Commission. He explained that they don't look at property values, the only things the Commission is allowed to consider are health and safety.

Shane Evans, 6 Pope Road expressed his opposition to this application.

Chairman Jeff Luff stated that the courts have found in favor of the applicant there is nothing further to be done at this time.

Shane Evans, 6 Pope Road questioned if the Pope Road would be widened, because it will be used as an access.

Attorney Peter Olson stated that the access is on Hurley Road.

Shane Evans, 6 Pope Road stated that people will use Pope Road as an access.

Chairman Jeff Luff stated that it is a public road; there is nothing that can be done by the Commission.

Attorney Peter Olson explained that public roads are not something the Commission can do something about when considering an application.

Shane Evans questioned why the Commission proposed housing in this location.

Attorney Olson stated that it is not the Commission's proposal; it is the property owner's proposal. This is what the property owner proposed to do with his property.

Shane Evans asked if anyone had any idea what the owner wanted to do with this property.

Attorney Olson stated that it doesn't really matter what anybody knew, the property owner applied to do what he wanted to do with his property.

Shane Evans questioned if he could come in with an application to put trailers on his property?

Attorney Olson stated that he could make application to the Commission for an 8-30g on his property, as long as he met all the health and safety requirements.

Shane Evans questioned if they would do Section 8 housing.

Attorney Olson stated that Section 8 housing has nothing to do with zoning. He commented that the zoning Commission doesn't decide whether the properties are approved as project based section 8 housing or if each individual tenant is eligible for Section 8, they have no control over that.

Shane Evans questioned if it is not up to zoning, it is up to the property owners'.

Attorney Olson stated "yes," it is the property owner's decision.

Ann Evans, 449 Grassy Hill Road stated that her son, Shane, has owned the house for less than a month and found this out less than 72 hours ago. She stated that this application was not disclosed by the real estate agents or the homeowners.

Chairman Jeff Luff stated that the situation sounds like more of a civil issue between the homeowner and realtor.

Ann Evans questioned if there is anything on record which would show who might have been to the Commission on this application in 2014.

Attorney Olson stated that it would be in the minutes, transcripts, and recording of the meeting.

Ann Evans questioned if people would use Pope Road.

Chairman Jeff Luff stated that it is not something that the Commission can concern themselves with at this time, the court has decided, the application is approved and the Commission has to accept it.

Ann Evans questioned if the developer understands that “your people” don’t want a trailer park.

Chairman Jeff Luff stated that they are not discussing that today.

Ann Evans questioned how far apart the trailers are from one another, she stated that she heard they were only five feet apart.

Attorney Olson stated that the plans are on file in the office during regular business hours.

Ann Evans stated that her son has worked hard and bought the house and now he lives near a trailer park.

Chairman Jeff Luff stated that he understands, but the Commission fought it for 12 years and lost. He stated that you could look at it as if you own property; you don’t want anyone telling you what you can and cannot do on your own property.

Shane Evans questioned (and not to be mean) but, “what is the Commission for”?

Attorney Olson stated that the Commission receives applications from property owners to develop property all the time; he invited Mr. Evans to stay for the meeting at 7:30. He noted that the Commission has a lot going on right now.

Chairman Jeff Luff stated that they are for safety and environment and they have addressed that in the application. They fought it for 12 years and they lost.

Attorney Olson stated the Commission is empowered by statute and ordinance to do so make decisions, they do not decide what developments get proposed, they only decide if the developments meet the regulations.

Shane Evans, 6 Pope Road questioned when they would start building.

Attorney Peter Olson stated that they have already begun building.

There were no further public comments.

Attorney Olson pointed out two things, the Commission received the Statement of the invoices and one they received the plans for the road, they will have to adopt a resolution for the DOT saying that they have reviewed the plans and that the Commission is in support of the second access. He stated that the second access is not part of this package.

Vice Chairman Arnie Jensen questioned if the second access is in the current plans.

Attorney Olson stated that the access is shown in the plans, but not in detail.

Chairman Jeff Luff questioned if it is approved by the DOT.

Attorney Olson stated that no approval has been issued by the DOT.

Commissioner Pete Zbras questioned what happens if it passes and they cannot get a second access.

Chairman Jeff Luff stated that the judge didn't give the Commission that option; they are approving it without the second entrance and encouraging the DOT to allow a second access.

Attorney Olson stated that the settlement agreement says that the Commission supports, second access, and thinks it is necessary for the health and safety and that the Commission will work with the applicant to get the DOT to issue that approval. He noted that if the DOT decides that they cannot get a second access, emergency access or a walking access, then they are left with what the judge decided, which was that one access was enough. This is really a statement of intent to work to get that second access.

Chairman Jeff Luff stated for the record that Sergeant Dan Semosky and Fire Marshall, Scott Pelletier both strongly encouraged the second access.

MOTION BY Commission Secretary Pat Cocchiarella:

1. The Commission approve a settlement of the administrative appeal entitled Garden Homes Management Corporation v. Planning & Zoning Commission of the Town of Oxford, which appeal was heard in judicial district of Hartford at Hartford under docket number HHD-CV 14 6052002 S;
2. The Chair of the Commission is authorized to sign the Settlement Agreement presented to and reviewed by the Commission as part of a public meeting pursuant to Practice Book § 14-7A;
3. The Commission's legal counsel is authorized to make minor adjustments to the Settlement Agreement as required to conform to the procedural requirements for approval. Counsel shall return to the Commission for approval of substantive revision.
4. The Commission's legal counsel is authorized to secure approval of the settlement by the Court, as required General Statutes § 8-8n;
5. Notice of this decision shall be published in a newspaper of general circulation in the Town of Oxford.

Vice Chairman Arnie Jensen seconded the motion for discussion:

Commission Secretary Pat Cocchiarella questioned the Commission supporting the second access onto Airport Access Road. He asked for clarification if that is in the purview of the Commission or the Board of Selectmen.

Attorney Olson stated that he does not think that the town owns Airport Access Road; it is owned by the state, so it would be the states determination to allow that access way.

Commission Secretary Pat Cocchiarella stated that on page 5, there is a reference to the "Commission," he is questioning if it should be the Board of Selectmen because they handle roads.

Attorney Olson stated that the Commission is not the applicant to the state and he does not think the Town needs to be either, the purpose of this section is to tell the state that the Commission would very much like that road to be added and that is all that section is intended to do, to provide the Commission's support. He stated that the Commission reviews the site plan and ones that negotiated the final settlement. He commented that he does not think the Town needs to be the applicant or give any permission, all they are doing is saying that they support the applicant's request.

Commission Alternate John Kerwin stated that the Commission's support is going to be communicated to the DOT.

Attorney Olson stated that Alternate Commissioner Kerwin is correct.

Commission Alternate John Kerwin questioned if the state would have access to this information.

Attorney Olson stated that in the resolution, it states that the Commission supports the second access.

Chairman Jeff Luff called for a vote.

Ayes (Luff, Kerwin, Cocchiarella, Wall, Jensen).

Nays (Zbras) He stated that he could not in good conscience vote yes for this without a guaranteed second access for safety reasons.

Motion to approve settlement agreement passed 5-1.

ADJOURNMENT

MOTION BY Vice Chairman Arnie Jensen to adjourn the meeting at 7:29 PM.

Second by Commission Secretary Pat Cocchiarella.

All (6) Ayes.

Motion passed 6-0.

Respectfully submitted,



Jessica Pennell

Planning & Zoning Department

18 FEB -8 PM 3:16
TOWN OF OXFORD, CT
TOWN CLERK
Angela H. Clark