

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, May 21, 2019
7:30 P.M Main Meeting Room
S.B. Church St. Memorial Town Hall

CALL TO ORDER

Chairman Jeff Luff called the meeting to order at 7:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Joshua Dykstra, John Kerwin, Pete Zbras, Dave Sauter, Jeff Luff, Dan Wall, Tanya Carver, and Alan Goldstone (arrived at .

Not Present: Greg Wanamaker.

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

I. PUBLIC HEARINGS

A. CONTINUED PUBLIC HEARINGS

Chairman Jeff Luff opened the recessed public hearing on the following application:

1. Text Amendments to the Oxford Planning & Zoning Regulations

Proposed Amendments to the following Articles:

Article 2 – Definitions, **Article 10** – Special Exceptions (Contractor's Yards), and

Article 14 – Earth Re-grading & Excavation.

Chairman Jeff Luff opened the floor for public comments:

Attorney Steven Kulas, representing property owners on Hawley Road, stated that he reviewed the proposed regulations and questioned the definition of "construction/demolition debris"; he asked that the Commission consider clarifying the definition. He also referred to Article 10 (Special Exceptions),

Section 10.7 and inquired about the notation “sliding scale”. He asked if there would be something else added to this section.

Peter Olson, Land Use Counsel stated that he added the notation because he wanted to receive input from the Commission before drafting that particular section of the regulations.

Commission Secretary Pat Cocchiarella read correspondence from Attorney Dominick Thomas dated 5/21/2019.

There were no other comments from the public.

Chairman Jeff Luff asked the Commissioners if they had any comments. He noted that in regards to the “sliding scale”, he suggested using demographics, and the acreage of the lots to determine the required size of the building.

Peter Olson, Land Use Counsel discussed briefly the sliding scale. He commented that instead of requiring 2,000 square feet regardless of the size of the property, the Commission could create a scale that considers the lot size in determining the size of the building.

Chairman Jeff Luff asked that Commissioners note the comments made this evening and be prepared to discuss these items during deliberations for the regulation amendments.

MOTION BY Commission Secretary Pat Cocchiarella to close the hearing.

Second by Commissioner Dan Wall.

All (7) Ayes.

Motion passed unanimously.

B. NEW PUBLIC HEARINGS

C. FUTURE PUBLIC HEARINGS AND OPEN PUBLIC HEARINGS

(NO ACTION AT THIS MEETING)

II. REGULAR MEETING BUISNESS

A. SEATING OF ALTERNATES

B. AMENDMENTS TO THE AGENDA

MOTION BY Commission Secretary Pat Cocchiarella to remove Item #1 under New Business from the agenda.

Second by Commissioner Dan Wall.

All (7) Ayes.

Motion passed unanimously.

C. AUDIENCE OF CITIZENS

D. CORRESPONDENCE

Commission Secretary Pat Cocchiarella read the following correspondence into the record:

1. Memorandum from Office of the First Selectman
Re: Planning & Zoning Appointments
2. Letter to Steve Macary, ZEO from Tom Picalgi
Re: The Hurley Group – Application Z-14-015 – Request for Extension

MOTION BY Commission Secretary Pat Cocchiarella to grant the request for a 5-year extension for application Z-14-015.

Second by Commissioner Dan Wall.

All (7) Ayes.

Motion passed unanimously.

E. OLD BUSINESS – MATTERS ON WHICH A PUBLIC HEARING WAS HELD

TIMBERLAKE APARTMENTS APPLICATIONS:

Application Accepted: October 16, 2018; Public Hearing Closed: February 19, 2019; deadline to make Decision: April 24, 2019; Applicant extension to May 21, 2019.

The Planning & Zoning Commission, at a previous meeting requested that Peter Olson, Land Use Counsel draft motions of approval separately for the following applications:

1. **Z-18-270 [RGCD] - Riggs Street, “Timberlake Apartments at Oxford Greens - Owner & Applicant:** Timberlake Investment Partners V, LLC (Proposed Text Amendment to Article 5A Residential Golf Community District, pursuant to CGS §8-30 g)

Commission Secretary Pat Cocchiarella made a motion to approve the following resolution:
It is hereby resolved that the following application is hereby APPROVED, subject to the conditions stated herein.

APPLICATION NO. Z-18-270 – Riggs Street
Timberlake Apartments at Oxford Greens
Owner & Applicant: Timberlake Investment Partners V, LLC
Application to Amend Article 5A – Residential Golf Community District

FINDINGS:

1. The proposed amendment is submitted solely in connection with an application for site plan approval for a 197 unit residential development.
2. The proposed development is a “set-aside development” as defined in General Statutes § 8-30g (a) (6), and is therefore an “affordable housing development” as defined in General Statutes § 8-30g (a) (1). The application is an “affordable housing application” as defined in General Statutes § 8-30g (a) (2).
3. The Commission finds that the proposed amendment is not in accordance with the comprehensive plan, as none of the surrounding areas or zoning districts allow large format multi-family housing.
4. The Commission finds that the proposed amendment is not in conformance with the Plan of Conservation and Development, for the same reason.

5. Were the Commission to deny the Application, or approve the Application with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units in a set-aside development, and were the Applicant to appeal that decision to the Superior Court, the burden would be on the Commission to prove, based upon the evidence in the record compiled before such commission, that the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record, and to prove, based upon the evidence in the record compiled before such commission, that (1) (A) the decision is necessary to protect substantial public interests in health, safety or other matters which the commission may legally consider; (B) such public interests clearly outweigh the need for affordable housing; and (C) such public interests cannot be protected by reasonable changes to the affordable housing development.
6. The record before the Commission does not demonstrate that a denial of the application is necessary to protect substantial public interests in health, safety or other matters, which the Commission may legally consider.

Chairman Jeff Luff asked for a second to the motion.

There was no second.

Motion fails due to no second.

2. **Z-18-271 [RGCD] – Riggs Street "Timberlake Apartments at Oxford Greens - Owner & Applicant: Timberlake Investment Partners V, LLC (Site Plan for 197 multi-family housing units pursuant to CGS §8-30 g)**

Commission Secretary Pat Cocchiarella made a motion to approve the following resolution:

APPLICATION NO. Z-18-271 – Riggs Street
Timberlake Apartments at Oxford Greens
Owner & Applicant: Investment Partners V, LLC
Site Plan for 197 multi-family housing units pursuant to CGS § 8-30g

It is hereby resolved that the following application is hereby APPROVED, subject to the conditions stated herein.

FINDINGS:

1. The property is located in the Residential Golf Community District, established pursuant to Article 5A of the Oxford Zoning Regulations.
2. The Residential Golf Community District does not permit large format multi-family housing.
3. The proposed development is a “set-aside development” as defined in General Statutes § 8-30g (a) (6), and is therefore an “affordable housing development” as defined in General Statutes § 8-30g (a) (1). The application is an “affordable housing application” as defined in General Statutes § 8-30g (a) (2).
4. Were the Commission to deny the Application, or approve the Application with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units in a set-aside development, and were the Applicant to appeal that decision to the Superior Court, the burden would be on the Commission to prove, based upon the evidence in the record compiled before such commission, that the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record, and to prove, based upon the evidence in the record compiled before such commission, that (1) (A) the decision

is necessary to protect substantial public interests in health, safety or other matters which the commission may legally consider; (B) such public interests clearly outweigh the need for affordable housing; and (C) such public interests cannot be protected by reasonable changes to the affordable housing development.

5. The record before the Commission does not demonstrate that a denial of the application is necessary to protect substantial public interests in health, safety or other matters, which the Commission may legally consider.

6. Nevertheless, the Commission finds that certain conditions should be placed on the approval, as stated herein, such conditions being reasonable and appropriate to protect such interests and matters.

CONDITIONS OF APPROVAL:

1. The development shall be constructed in accordance with the final set of plans submitted to the Commission during the public hearing, modified as required by this Approval.
2. The development shall be served principally by the access onto Riggs Street. All other ingress or egress to the development shall be for emergency vehicles only, and shall be obstructed with a permanent locked gate, with Town emergency personnel provided with a code or key for the gate.
3. The area between buildings and land located on Stonebridge Drive shall be enhanced with additional landscaping beyond that shown on the plans, to provide permanent year-round screening of the view of the buildings from the homes on Stonebridge. The applicant shall provide an amended landscaping plan to the zoning enforcement officer for review and approval prior to implementation.

STANDARD CONDITIONS OF APPROVAL:

This Approval is also subject to the following standard conditions of approval:

1. Compliance with all Town of Oxford Regulations and Ordinances in effect as of this date.
2. No substitute material shall be used without approval of the Planning and Zoning Commission and the Planning and Zoning Commission Engineer.
3. 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.
4. The applicant and their assigns must comply with all representations made at Planning and Zoning Commission meetings or at public hearings regarding this application.
5. The applicant shall submit one complete copy of the set of plans, which reflect these conditions of approval, with a copy of the conditions of approval attached.
6. No work to be done until security is set by the PZC Engineer in a form acceptable to Town Counsel, and installed by the applicant.
7. The specific uses on this property shall be limited to those designated within the "Statement of Use" submitted by the applicant.
8. The applicant shall have a pre-construction meeting with appropriate Town Staff prior to any construction activities.

9. 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 Commission's engineer.
10. 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.
11. Site Plan approval expires if the work is not completed within five (5) years from the date of approval.

Chairman Jeff Luff called for a second to the motion.

There was no second.

Motion fails due to no second.

Peter Olson, Land Use Counsel advised the Commission that with both of the previously failed motions, they should consider a motion of denial. He noted that today is the last day the Commission has to vote on the applications.

MOTION BY Commission Secretary Pat Cocchiarella to approve the following resolution of denial:

It is hereby resolved that the following application is hereby DENIED.

APPLICATION NO. Z-18-270 – Riggs Street
Timberlake Apartments at Oxford Greens
Owner & Applicant: Timberlake Investment Partners V, LLC
Application to Amend Article 5A – Residential Golf Community District

FINDINGS:

1. The proposed text amendment is submitted solely in connection with an application for site plan approval for a 197 unit residential development.
2. The proposed development is a "set-aside development" as defined in General Statutes § 8-30g (a)(6), and is therefore an "affordable housing development" as defined in General Statutes § 8-30g (a)(1). The application is an "affordable housing application" as defined in General Statutes § 8-30g (a)(2).
3. The Commission finds that the proposed amendment is not in accordance with the comprehensive plan, as none of the surrounding areas or zoning districts allow large format multi-family housing.
4. The Commission finds that the proposed amendment is not in conformance with the Plan of Conservation and Development, for the same reason.
5. General Statutes 8-30g does not require that the commission adopt text amendments or map amendments to facilitate an 8-30g development, only that draft regulations be submitted. A site plan for an 8-30g development can be approved notwithstanding that it does not comply with the zoning regulations. Accordingly, the Commission finds that the text amendment is unnecessary and not required to facilitate the associated APPLICATION NO. Z-18-271, and therefore the amendment does not promote any of the interests articulated by General Statutes § 8-30g(g)(1)(A).
6. The Commission finds that the text amendment is not in compliance with the comprehensive plan or the Plan of Conservation and Development, because the district, surrounding districts and surrounding

properties do not allow (nor do they contain) multifamily apartment buildings.

7. The Commission finds that the text amendment as drafted is overly broad and unnecessary to achieve the approval of APPLICATION NO. Z-18-271. In addition, even if the Commission were to approve the associated APPLICATION NO. Z-18-271, the following sections of the proposed text amendment exceed the Commission authority to approve:

- a. those sections allowing multifamily housing throughout the zoning district;
- b. those sections requiring the Commission and/or the Town to enforce compliance with the Fair Housing Act Fair Housing Act, Title VIII of the Civil Rights Act of 1968.

8. Accordingly, the record before the Commission thus demonstrates that the proposed text amendment is not associated with any substantial public interests which the Commission may legally consider pursuant to General Statutes § 8-30g(g)(1), and is beyond the authority of the Commission to approve.

Second by Commissioner Dan Wall.

Commissioner Tanya Carver noted that the current application does not comply with some of the original conditions of approval and should be included in the motion. Specifically she would like to add condition #44a and condition #46 of the original approval for application Z-00-243 to the motion of denial.

Commissioner Dan Wall seconded the amendments to the resolution.

Vote on amending the Resolution of Denial: All (7) Ayes.
Motion to amend the motion passed unanimously.

Vote on the amended Resolution of Denial:

Number of Commission Members in favor of Foregoing Resolution: 7
Number of Commission Members opposed to Foregoing Resolution: 0
Motion passed unanimously.

Commission Secretary Pat Cocchiarella moved to approve the following resolution of denial:

It is hereby resolved that the following application is hereby DENIED, for reasons stated herein.

APPLICATION NO. Z-18-271 – Riggs Street
Timberlake Apartments at Oxford Greens
Owner & Applicant: Timberlake Investment Partners V, LLC
Site Plan for 197 multi-family housing units pursuant to CGS § 8-30g

FINDINGS:

1. The property is located in a Residential Golf Community District, established pursuant to Article 5A of the Oxford Zoning Regulations.

2. The Residential Golf Community District does not permit large format multi-family housing.

3. The proposed development is a “set-aside development” as defined in General Statutes § 8-30g (a)(6), and is therefore an “affordable housing development” as defined in General Statutes § 8-30g (a)(1). The application is an “affordable housing application” as defined in General Statutes § 8-30g (a)(2).
4. The record before the Commission demonstrates that a denial of the application is necessary, pursuant to General Statutes § 8-30g (g)(1)(A) “to protect substantial public interests . . . which the Commission may legally consider, (B) such public interests clearly outweigh the need for affordable housing; and (C) such public interests cannot be protected by reasonable changes to the affordable housing development.”
5. The record demonstrates that the proposed APPLICATION NO. Z-18-271 is entirely in an area currently zoned under Article 5A of the Oxford Zoning Regulations, as Residential Golf Community District. Article 5A of the Oxford Zoning Regulations was proposed by the applicant and adopted by the Town of Oxford. Specifically, Section 5A.1, *Intent and Purpose*, dictates that the intent of Article 5A is to “[e]nable the development of golf-oriented residential communities to expand housing opportunities for adult communities” (The full text of the Article 5A.1 is incorporated and referenced herein.) The record clearly demonstrates that the Oxford Greens Golf Course Community consists of (8) eight approved phases, (6) six of which have been completed by the applicant in conformance with Article 5A and the approval of the commission.
6. The record demonstrates that the location of proposed APPLICATION NO. Z-18-271 is entirely in an area of previously approved as Phase Eight of the Oxford Greens Development on Riggs Street, and this phase was previously proposed by the applicant and was approved by the Commission pursuant to Article 5A to contain 64 single family or duplex detached condominium units. These units conformed with Section 5A.2.1, *Permitted Uses, Residential Uses*, of the Oxford regulations, the full text of which is incorporated and referenced herein. The applicant, under APPLICATION NO. Z-18-271, requests the approval of 197 rental units contained in a large format, multi-family housing development consisting of three (3) large apartment style building in the area previously approved as Phase Eight of Oxford Greens Development.
7. That the record demonstrates that in the area and on the land comprising the location of the proposed APPLICATION NO. Z-18-271, the applicant had previously proposed a special exception pursuant to Section 5A.8.1.C, for a 197 unit Assisted Living Facility consisted of (6) six apartment style, three-story buildings. That application for a special exception was denied by the commission in accordance with Article 10.1.3 and Article 10.3.1 of the Oxford Regulations, which sections are incorporated and referenced herein, because the proposed development would have a negative impact on the property values of the surrounding neighborhood, and because the development was inconsistent with the characteristics of the surrounding neighborhood. This application immediately followed the denial of that application.
6. That the record demonstrates that APPLICATION NO. Z-18-271 is a significant deviation from the overall plan of development expressly proposed by the applicant and adopted by the Commission pursuant to Article 5A of the Oxford Zoning Regulations. The record further demonstrates that APPLICATION NO. Z-18-271 would have a negative impact on the property values of the surrounding neighborhood, and is inconsistent with the characteristics of the surrounding residential neighborhoods and developed Golf Course Communities. The record further demonstrates that numerous members of the public objected to the applications, indicating that they had relied on the consistent plan of development in accordance with uses articulated in Article 5A.2, (incorporated herein) as originally proposed by the applicant in choosing to purchase property in the neighborhoods affected by APPLICATION NO. Z-18-271.

7. That the commission finds that the considerations referenced in paragraphs 1 through 6 above, constitute “other matters which the Commission may legally consider,” pursuant to General Statutes § 8-30(g)(1)(A). While the commission recognizes and appreciates the need for affordable housing, the commission finds that the public interest in requiring consistency in the development and administration of Article 5A of the Oxford Zoning Regulations, which the Commission had approved at the request of the applicant, and on which the Oxford community has relied, clearly outweighs the need for affordable housing in this instance; and cannot be protected by reasonable changes to the affordable housing development.

8. The Commission FURTHER finds that the APPLICATION NO. Z-18-271 is not in conformance with the comprehensive plan of development, as none of the surrounding areas or zoning districts permit large format multi-family housing.

9. The Commission FURTHER finds that the proposed amendment is not in conformance with the Plan of Conservation and Development, for the same reason above.

10. The record before the Commission thus demonstrates that the denial of the application is necessary to protect substantial public interests which the Commission may legally consider pursuant to General Statutes § 8-30(g)(1).

Second by Commissioner Pete Zbras.

Commissioner Pete Zbras noted that the resolution states that there were four buildings included in a previous application for an Assisted Living Facility, he noted that there were six building included in that application.

Peter Olson, Land Use Counsel stated that any factual information can be determined and corrected by reviewing the plans after the meeting.

Commissioner John Kerwin moved to add Condition #44a and Condition #46 of the original approval for application Z-00-243 to the Resolution of Denial.

Commissioner Pete Zbras seconded the motion to add Condition #44a and Condition #46 to the resolution.

All (7) Ayes.

Motion to amend the resolution passed unanimously.

Vote on the Resolution of Denial with amendments:

Number of Commission Members in favor of Foregoing Resolution: 7

Number of Commission Members opposed to Foregoing Resolution: 0

Motion passed unanimously.

MCNAMEE CONSTRUCTION – 10 ROBINSON LANE

Z-18-302 [IND] – 10 Robinson Lane - Owner: McNamee Construction, 154 Route 202, Lincolndale,

NY, Applicant: Daniel McNamee

(Special Exception – Contractor’s Yard)

(Site Plan for Construction of a Garage, Canopy, and Building)

Application Accepted: January 15, 2019; Public Hearing Closed: April 2, 2019; deadline to make Decision: June 5, 2019.

MOTION BY Commissioner Dave Sauter to approve the following resolution:

WHEREAS, The Oxford Planning and Zoning Commission have received Application Z-18-302 for a Special Exception and Site Plan.

WHEREAS, The Oxford Planning and Zoning Commission considered this application at a regularly scheduled meetings/public hearings on March 5, 2019, March 19, 2019, and April 2, 2019.

WHEREAS, The Oxford Planning and Zoning Commission considered the following maps and documents all drawn or prepared by Nowakowski, O'Bymachow, Kane & Assoc., within their deliberations:

- Overall Site Plan
- Grading Plan
- Soil & Erosion Control and Phase Plan
- Detention Area Cross-Sections
- Rain Garden Details
- Construction Detail Sheet
- Map of Property
- Building 1 Plans, Elevations, Sections
- Building 2 Plans, Elevations, Sections
- Building 3 Plans, Elevations, Sections

WHEREAS; The Oxford Planning and Zoning Commission considered the Town of Oxford Application No. Z-18-302 and finds;

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

SUBJECT TO THE FOLLOWING CONDITIONS;

1. Compliance with all Town of Oxford Regulations and Ordinances in effect as of this date.
2. No substitute material shall be used without approval of the Planning and Zoning Commission and the Planning and Zoning Commission Engineer.
3. 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.
4. The applicant and their assigns must comply with all representation made at Planning and Zoning Commission meetings or at public hearings regarding this application.
5. The applicant shall submit one complete copy of the set of plans which reflect these conditions of approval, with a copy of the conditions of approval attached.

6. No work to be done until security is set by the PZC Engineer in a form acceptable to Town Counsel, and installed by the applicant.
7. The specific uses on this property shall be limited to those designated within the “Statement of Use” submitted by the applicant.
8. The applicant shall have a pre-construction meeting with appropriate Town Staff prior to any construction activities.
9. 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 Commission’s engineer.
10. 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.
11. No certificate of occupancy shall be issued until the buildings shown in Phase 1 are completed and ready for the certificate of occupancy.
12. Site Plan approval expires if the work is not completed within five (5) years from the date of approval.

Second by Commissioner Pete Zbras.

All (7) Ayes.

Motion passed unanimously.

F. OLD BUSINESS – OTHER MATTERS

G. NEW BUSINESS – SCHEDULE PUBLIC HEARING

H. NEW BUSINESS – OTHER

1. **Z-19-048 [OCD] – 441 Oxford Road**
Applicant: ALZ, LLC d/b/a “Oxford House Tavern”
Owner: First Oxford House, LLC, 441 Oxford Road
(Use Permit/Sign Permit)

MOTION BY Commission Secretary Pat Cocchiarella to table this application to 6/4/2019.

Second by Commissioner Dan Wall.

All (7) Ayes.

Motion passed unanimously.

2. **Z-19-028 [IND] – 89 Prokop Road – Phase 1 - Building**
Applicant & Owner: Matthew Zaloumis, 315 Riggs Street
(Site Plan - Construct a 7,500 sq. ft. building)

This item has been removed from the agenda.

ZONING ENFORCEMENT

Chairman Jeff Luff explained briefly that the applicant who had previously received an approval for 306 Riggs Street would be coming back to the Commission with a Special Exception. He noted that the applicant is being represented by Attorney Dominick Thomas.

Commission Secretary Pat Cocchiarella noted that the size of the sign should be addressed when the applicant submits the application.

Steve Macary, ZEO also discussed 3 Charter Oak Drive, he is reviewing the permits for this property and will report back to the Commission.

MINUTES

1. **MOTION BY Commission Secretary Pat Cocchiarella** to approve the 4/2/19 Meeting Minutes as presented. **Second by Commissioner Tanya Carver.**

All (7) Ayes.

Motion passed unanimously.

2. **MOTION BY Commission Secretary Pat Cocchiarella** to approve the 4/16/19 Meeting Minutes as presented.

Second by Commissioner Tanya Carver.

All (7) Ayes.

Motion passed unanimously.

INVOICES

OTHER BUSINESS

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

Commission Secretary Pat Cocchiarella asked the Commission to consider having applicants sign a paper that states that they have read and understand and will abide by all the regulations that pertain to their application.

Chairman Jeff Luff asked the Commission to consider the template that Commission Secretary Pat Cocchiarella provided and give their feedback for the next meeting.

ADJOURNMENT


MOTION BY Commissioner Tanya Carver to adjourn the meeting at 8:50 PM.


Second by Commissioner Dan Wall.

All (7) Ayes.

Motion passed unanimously.

Respectfully Submitted,


Jessica Pennell, Coordinator
Planning & Zoning Commission

19 MAY 30 AM 9:35
TOWN OF OXFORD, CT

TOWN CLERK