



TOWN OF OXFORD
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Planning & Zoning Commission

Special Meeting Minutes
Tuesday, February 1, 2017
7:00 PM
Oxford Town Hall
Hearing Room

CALL TO ORDER

Chairman Arnie Jensen called the meeting to order at 7:01 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Bob Costigan, Pete Zbras, Todd Romagna, Tanya Carver, Jeff Luff and Arnie Jensen.
Also Present: Attorney Eugene Micci, Attorney Peter Olson and Jessica Pennell, Administrative Secretary.
Not Present: Harold Cosgrove, Pat Cocchiarella and John Kerwin.

SEATING OF ALTERNATES

Chairman Arnie Jensen seated Alternate Commissioner Pete Zbras.

1. **Garden Homes Management Corporation – Response to Court’s Remand**
Discussion with possible action by the Commission

Chairman Arnie Jensen presented and read the following documents:

- a. Letter from Nafis & Young dated 1/19/2017.
- b. Letter from Adler Consulting dated 1/24/2017.

Attorney Micci updated the Commission on conference calls he had had with Judge Frazzini and informed the Commission that the decision they make this evening has to be filed in court by February 3, 2017.

Commission members discussed the new documents and discussed which items have been addressed by the applicant and which items still needed to be addressed. They concluded that not all the safety items of concern have been addressed.

Peter Olson read the following resolution to the Commission.

RESOLUTION

As directed by the Superior Court (Frazzini, J.) during conference calls held in January, 2017, in the matter of *Garden Homes Management Corporation v. Planning & Zoning Commission of the Town of Oxford*, judicial district of Hartford at Hartford, docket no. HHD CV 14 6052002 S, the Planning & Zoning Commission of the Town of Oxford has conducted a further review of this matter on remand.

In connection with this further review, the Commission has received and reviewed the following documents:

1. A revised plan entitled “Snow Management, Traffic Signage Plan, Sheet 15 of 18”, revised to December 27, 2016;
2. A letter from Nafis & Young dated January 19, 2017; and
3. A letter from Adler Consulting dated January 24, 2017.

Based on the foregoing, the Commission believes that it should revise and/or amend its prior decisions as follows:

- A. The Commission has been unable to adequately review the proposed changes because the plans submitted were at 1” to 80’ scale instead of the normally required 1” to 40’ scale. As such, it is difficult to actually see the proposed changes.
- B. Sections 1, 3 and 4 of the Resolution dated October 6, 2015, as amended by the Resolution dated December 20, 2016 remain unchanged.
- C. Section 2 of the Resolution dated October 6, 2015, as amended by the Resolution dated December 20, 2016 is amended and restated as follows:

2. The adequacy of the no-left-turn sign on Emily Drive to address the line of sight issue.

a. In evaluating and addressing this issue, the Commission first must consider the directives of the Superior Court (Picard, J.) as contained in the Memorandum of Decision dated November 3, 2009 in the matter of *Garden Homes Management Corporation v. Planning & Zoning Commission of the Town of Oxford*, judicial district of New Britain at New Britain, docket no. HHB CV 14 4015729 S, wherein the Court sustained the appeal, remanded it to the Commission, and ordered that the Commission:

... approve the site plan and zoning permit applications subject to reasonable and necessary conditions, not inconsistent with this decision, for: 1) a full second access road which is separated from the access on Hurley Road; ...

In addressing this issue, the Court stated

My own review of the record leads me to conclude that a single access point for the 99 units in Oxford Commons West presents a serious health and safety issue which clearly outweighs the need for affordable housing. Affordable housing units should be just as safe as any other form of housing. The emergency access proposed by the plaintiffs is inadequate to safeguard the residents from the danger of one entrance being blocked. The reliance upon the proposed emergency entrance is insufficient. The use of this access would be subject to confusion and to human error in the event of a real emergency. This issue could be resolved with a condition that requires the plaintiffs to provide a full second access point which is separated from the access on Hurley Road.

Accordingly, the starting point for the Commission's analysis is this requirement that the applicant provide a full second access point which is separated from the access on Hurley Road.

b. The Commission finds that the proposed second access via Emily Drive fails to satisfy this requirement as set forth by Judge Pickard.

c. The Commission finds that (i) a driver seeking to make a left turn onto Hurley Road from Emily Drive is faced with an unsafe turning maneuver because the sight line to the right on Hurley Road is an inadequate and substandard sight line (only 250 feet), and (ii) a driver proceeding east on Hurley Road approaching Emily Drive is faced with the unsafe condition of drivers pulling out from Emily Drive in front of them with insufficient distance to stop due to the inadequate sight line. In making this finding, the Commission relies on all of the expert testimony presented to it as all of the experts, and the Superior Court (Frazzini, J.); agree that the sight line is inadequate.

d. The Commission finds that the provision of a no-left-turn sign on Emily Drive will not address the line of sight issue because motorists will ignore the prohibition, and as such, the proposed second access via Emily Drive is unsafe. In making this finding, the Commission relies on the expert testimony presented to it, as follows:

- Lt. from Resident State Trooper D. Semosky to Planning & Zoning Commission, September 14, 2015 ("Left turns only are not suitable and may actually confuse the issue as few will obey");
- Lt. from B. Adler to J. Pennell, September 10, 2015 ("However, it is the considered professional opinion of Adler Consulting that the proposed installation of no-left turn signs would not be sufficient to prevent left turns since motorists routinely ignore signs for their own convenience");
- Lt. from B. Adler to J. Pennell, September 10, 2015 ("A left-turn prohibition sign R3-2) with no roadway appurtenances to physically restrict left-turn movements is not sufficient to prevent left-turn movements. In that the safe stopping sight distance on Hurley Road is severely limited, motorists attempting to make the left-turn movement from Emily Drive present[s] a significant safety issue")
- Testimony of Resident State Trooper D. Semosky, September 15, 2015 at 20 ("Now the left turn only, and I just looked at the revised plan, they don't work, okay. The sound good; they don't work. We have one down by [Nardelli's] on Route 67 and people – if they want to go South on 67, they're going to go South on 67. The other one I see a lot is on West Street in Seymour by CVS and you a few will drive the wrong on West Street to get to CVS to avoid traffic. So somebody is going to want to go to the left or to the right. They're going to go whichever way they [want] unless there is an actual barrier preventing them to do it.")

- Testimony of M. O'Rourke, September 29, 2015, at 6;

e. The Commission finds that the physical geometry of the entrance at Emily Drive continues to be unsafe. Although the physical geometry of this access appears to have been resolved, the proposed bituminous curb will not be durable and as such will cause damage to the Oxford fire apparatus. In making this finding, the Commission relies on the following:

- Letter of B. Adler, January 24, 2017 at 2.

The Commission finds that it is possible that a more durable material would eliminate this unsafe condition, but it cannot review something that has not been presented.

f. The Commission finds that the physical geometry of the entrance at Oxford Commons West continues to be unsafe. In making this conclusion, the Commission relies on the following:

- Letter of B. Adler, January 24, 2017 at 2 (...the revised plan shows the position of the Aerial Ladder Truck slightly over the centerline of the Oxford Commons West. Also, when the Aerial Ladder Truck turns onto Hurley Road the overhang of the Aerial Ladder Truck will still cross over the far side of Hurley Road.)

The Commission finds that it is possible that an alternative physical geometry could eliminate this unsafe condition, but it cannot review something that has not been presented.

g. The Commission finds that a second access to the site from Hurley Road to Emily Drive does not meet the criteria set forth by Judge Pickard, that a full second access, "separated from the access on Hurley Road" be provided. The close proximity of the two entrances does not safeguard residents from, as stated by Judge Pickard, "the danger of one entrance being blocked", since obstructions which affect one entrance will almost certainly affect the other, increasing response time in emergencies and preventing safe evacuation of the proposed development. In making this finding, the Commission relies on the expert testimony presented to it, as follows:

- Lt. from Resident State Trooper D. Semosky to Planning & Zoning Commission, September 14, 2015 ("For safety reasons the property requires another emergency vehicle access that is not on Hurley Road for response time to potential active emergency crime and medical calls");
- Testimony of Resident State Trooper D. Semosky, September 15, 2015 at 20-22.

Accordingly, as to the adequacy of the no-left-turn sign on Emily Drive to address the line of sight issue, the Commission finds that the proposed second access on Emily Drive does not meet the criteria set forth by Judge Pickard, and the proposed no-left-turn signage does not alleviate the significant risks to the safety of the public and the residents of the proposed development. These public safety issues outweigh the need for affordable housing, since the residents clearly deserve to reside in homes which can be safely accessed, both by private vehicles and public or emergency vehicles, and can be safely evacuated in the event of an emergency.

As held by Judge Pickard, a second access to the property, separated from the access on Hurley Road, is required to provide for a safe development. A second access just 140 feet away, also on Hurley Road, does not meet this requirement. The Applicant must rethink whether this property is suitable for safe development at the scale it desires, unless it can find some way to provide this needed secondary access.

The Commission cannot approve the application as a result of this outstanding safety issue, and stands by its initial denial.

D. The Commission does not believe that the pedestrian strip added in the Revised Plan dated December 27, 2016 is safe. A sidewalk for pedestrians adjacent to the roadways would be welcome and desirable, but pedestrians using the roadways to walk presents an unsafe condition and should not be added.

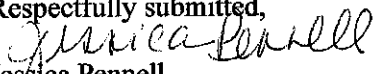
E. Nothing in this decision shall be construed to modify, revise or amend any other portion of the Commission's decision of October 6, 2015, as amended by its decision of December 20, 2016 or prior decisions, which remain in full force and effect. The Commission reserves all rights and remedies it may have concerning such decisions and the application.


Commissioner Tanya Carver moved to accept and adopt the resolution read aloud by Attorney Olson. **Second by Alternate Commissioner Pete Zbras. All Ayes.**

ADJOURNMENT

MOTION BY Vice Chairman Jeff Luff to adjourn the meeting at 7:42 PM. **Second by Commissioner Bob Costigan. All Ayes.**

Respectfully submitted,


Jessica Pennell
Administrative Secretary
Planning & Zoning Commission

17 FEB 15 PM 1:29
TOWN OF OXFORD, CT

TOWN CLERK