



Planning & Zoning Commission

TOWN OF OXFORD

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

Special Meeting Minutes
Wednesday, July 11, 2018
7:00 PM
Main Meeting Room

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

ROLL CALL/SEATING OF ALTERNATES

Present:

Jeff Luff
Pat Cocchiarella
Pete Zbras
Tanya Carver
Arnie Jensen
John Kerwin

Also Present:

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

Not Present:

Jessica Pennell

Chairman Jeff Luff seated Alternate Commissioner John Kerwin.

ITEM 1: Executive Session to discuss litigation regarding Application No. Z-16-222 [RGCD]
– Oxford Greens – Proposed Assisted Living Facility, Owner & Applicant:
Timberlake Investment Partners V, LLC

MOTION BY Commission Secretary Pat Cocchiarella to enter into executive session to discuss the abovementioned litigation.

Second by Vice Chairman Arnie Jensen.

All (6) Ayes.

Motion passed 6-0.

MOTION BY Commission Secretary Pat Cocchiarella to come out of executive session at 7:20 PM.

Second by Vice Chairman Arnie Jensen.

All (6) Ayes.
Motion passed 6-0.

Chairman Jeff Luff stated for the record that no action was taken during Executive Session.

ITEM 2: Settlement Hearing: Interested parties will have an opportunity to be heard by the Commission regarding a potential resolution of pending litigation regarding Application No. Z-16-222 [RGCD] – Oxford Greens – Proposed Assisted Living Facility, Owner & Applicant: Timberlake Investment Partners V, LLC.

Peter Olson, Land Use Counsel gave a brief overview of the timeline regarding this application. He noted that the applicant applied for an application, the Commission denied the application, and the applicant appealed the Commission's decision in Superior Court. He noted that the current status of the appeal is that the Return of Record is due in court by 9/9/18. The applicant has asked whether the Commission would entertain settlement of the case based on a revised site plan.

Attorney Olson noted the following:

1. Commission can hold Executive Session to discuss settlement, any decision of the Commission must be made on the record.
2. There is no requirement that the public be allowed to participate, but because of the nature of the application, the applicant has offered to make a presentation, and invited the public to participate.
3. This is not a Public Hearing.
4. Although not required, the applicant sent notice to abutting property owners and the Commission also noticed the meeting.

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

- a. Letter dated 5/28/18 from Ralph Bauco, President, Board of Director's, Village at Oxford Greens.

Chairman Jeff Luff invited the representatives of Timberlake to begin their presentation.

Christopher J. Smith, Attorney for the applicant, introduced himself and noted that Robert Smith and Phil Craft of Timberlake Investment Partners are present as well as David Golebiewski of TPA Design Group and Paul Doyle, Certified Senior Advisor for Senior Living Options with OASIS.

Attorney Smith noted the following:

1. This is a Settlement Hearing, and there are specific practice book provisions for this process.
2. Commission went beyond required provisions.
3. Issues prior to the denial and appeal were:
 - a. Aspects of the Assisted Living Use
 - b. Potential impacts to the neighboring properties.

Attorney Smith noted that pursuant to the Commission's request, the applicant contacted the Oxford Greens Association and held a meeting with them on 4/27/18. He explained that the changes to the site plan were presented to the Board of Directors of Oxford Greens. He also stated that notices and invitations were extended to the residents of Stonebridge Road.

David Golebiewski, TPA, Landscape Architect, explained that what was previously opposite the cul-de-sac on Stonebridge Road was a building with 18 units, the building has been completely eliminated. He also noted that the landscape buffer has been substantially increased to include a triple row of 6-8 foot high evergreen trees.

Robert Smith, Timberlake Investment Partners, stated that the buildings were the same height as a residential home, there is a 35' height requirement under the regulations that they are applying.

Chairman Jeff Luff opened the floor for comments from the public:

PUBLIC COMMENTS/QUESTIONS:

Mike Fedak, 8 Stonebridge Road:

1. Opposes approval
2. Referenced Section 10 of the Zoning Regulations
 - a. Concerned about property values.
 - b. Detriment to the neighborhood.

Questions:

1. How will the Town make him whole if this approved and decreases his prop value?
2. Three story buildings are too high.
3. Can they install a berm to elevate the trees?
4. Well testing before and after construction?
5. Entrance from Stonebridge, can they ensure it will never become a main entrance.
6. Did the Commission research other Assisted Living Facilities? Do they have the volume to fill an Assisted Living Facility?
7. Can they stipulate that there will be no change from Assisted Living to apartments or rentals?
8. If a building is going to be for dementia patients, which building would it be and what security measures will be taken?

Ralph Bauco, 421 Tee Shot Drive, President, Oxford Greens Board of Director's:

1. He and three other board members present this evening.
2. Currently 400 units at Oxford Greens, approximately 800 residents.
3. The community has a vested interest in the Town.
4. Provide charitable services to Oxford residents and surrounding areas.
5. Shared Timberlake's proposal with Oxford Greens residents via meeting and emails.

Bill Cook, 12 Chauncey Drive, noted his employment as a Director of Development for Benchmark Assisted Living. He gave a brief background of his experience with permitting and building assisted living facilities. He made a comparison of his company's current projects and of Timberlake's proposal.

Joyce Venice, 9 Stonebridge Road:

1. The project would change the characteristics of the neighborhood.
2. Questioned if the changes put forth change the commission's decision.

3. She is present because she cares what happens to the neighborhood.

David Seliga, 179 Riggs Street:

1. Concerned with the way the entrance is laid out.
2. Went to P&Z to review plans.
3. Is the access considered commercial or residential driveway?
4. Do the same site line requirements apply?
5. Plans were not in the office.
6. Offered people to come between 6 PM-8 PM to see the traffic flow.

Jeff Luff responded to questions regarding the driveway. He explained that the engineer and other traffic experts would make sure it is done properly. He is concerned about headlights shining in his front door.

David Seliga, 179 Riggs Street stated that it may be safe as it is, but questioned if it would be safe if they moved the driveway.

Joe Geffert, 7 Stonebridge Road, noted that hears the word settlement, and is not exactly sure how they got there because the Commission vetoed this application. He questioned why a settlement is the only thing on the table. He also noted his concern about the character of the neighborhood.

Attorney Smith responded, reiterating that his client provided notice and invitations to Stonebridge Road residents.

Attorney Smith also noted the following in response to some public comments:

1. Use is permitted in the RGCD subject to a special exception review and approval.
2. A conceptual plan was filed in the past, not locked into the conceptual plan.
3. Market dictates that it will work.
4. Opposition by Benchmark (competitor).
5. Of the four points that were brought up, they were okay with 3; the one regarding deliveries by 8 AM is going to be difficult to control.

Robert Smith, Timberlake Investment Partners, responded that the DOT has strict rules about rush hour deliveries, they want to do what is reasonable and fair, but 8 AM is almost impossible to guarantee with almost 300 vendors, possibly 11 AM, or Noon. He also stated that they have reduced the unit count by eliminating a building, made provisions for noise, implemented dark sky compliant lighting, and added substantially to the landscaping at the cul-de-sac of Stonebridge Road.

Attorney Smith responded to the question by Mike Fedak, and stated that well testing was offered. He also responded to the questions about the access on Stonebridge Road, it will remain an emergency access only, and will not be turned into a full access.

Discussion ensued regarding site lines and the traffic study that was done for the application when it was filed.

Attorney Olson asked Chris Smith to explain how site lines are calculated.

Attorney Smith explained how the site lines are calculated.

David Golebiewski stated that they are based on the unobstructed distance in both directions.

Attorney Smith stated that the height is the same as the previous single-family homes that were originally approved for the Phase. He stated that they eliminated a building, made changes in grades, and agreed to a landscaping buffer and that it is a permitted use in the RGCD.

Chairman Jeff Luff stated questioned if the applicant would be okay with a condition of approval that the project remains an assisted living facility for as long as it exists.

Attorney Smith stated that if the applicant ever wanted to make changes, it would have to come before the Commission and abide by public hearing procedures and requirements as well as their final action by the Commission.

Chairman Jeff Luff stated that the Commission couldn't consider any financial aspects when making the decision.

First Selectman George Temple, Ex-officio member of P&Z questioned if the Town would receive any credit for affordable housing from the project.

Attorney Olson explained that no part of the proposal that includes an affordable component.

First Selectman George Temple explained that the Town was previously negotiating with Masonicare, which is a non-profit organization that is not moving forward at this time. He expressed his thoughts about the project and the current needs of the Town, as well as the impact on the Town's tax base. He noted that the traffic on Riggs Street does need to be addressed. He stated that he supports the project.

Commission Secretary Pat Cocchiarella explained that the Commission should call it a special permit, not special exception because it is a permitted use in the zone, it is not an exception to the Zoning Regulations, and it just undergoes higher level of scrutiny.

Commissioner Tanya Carver stated that it is a use that is permitted in the zone. She stated that restrictions were put on the master conceptual plan that do not allow buildings over 55 feet, and she would like the association to provide the # of units and the current percent of ownership.

Ralph Bauco, President of the Board of Directors for Oxford Greens stated that the maximum number of units is 922, and the approximate number currently built is 410.

Alternate Commissioner John Kerwin noted that this is not a public hearing, it is a settlement hearing. He referred to Section 10.3, and stated that it needs full membership of the Commission to vote, also includes addressing property values, those can rely on Section 10, exceptions they already had a public hearing and the application was denied. He reiterated that this is a hearing on the settlement; there has been no discussion on the strengths of the town's case in defending the appeal. He noted that his concern is how it would affect the neighborhood, he referred to the a mock up that showed how the area would look from Stonebridge Road with the homes, and asked that they provide a new mock up with the landscape barriers and the eliminated building.

Chairman Jeff Luff asked for a new mock up with the settlement proposal.

Alternate Commissioner John Kerwin, questioned why there is a large open field where they eliminated the building.

David Golebiewski stated that it was envisioned as an open lawn feature.

Alternate Commissioner John Kerwin questioned the text change to modify the Section 5.4B, and if the applicant would be willing to remove that request.

Attorney Peter Olson stated that they would have to look at the file.

Attorney Smith stated that he does not recall a text amendment with this application.

Alternate Commissioner John Kerwin asked, if he were correct about the text amendment, would they be willing to remove that from the proposal.

Attorney Smith stated that if there were a text amendment proposal, the applicant would have no objection to removing the text amendment.

Chairman Jeff Luff questioned if they would be willing to make it a condition of approval if the Commission decides to settle.

Chairman Jeff Luff asked if there were any questions from the public that were not answered.

Bill Cook, 12 Chauncey Drive invited Commissioners to visit one of the benchmark facilities.

Ralph Bauco, President of the Board of Director's for Oxford Greens acknowledged the efforts of Timberlake and asked that the association have access to the conditions of approval.

Attorney Olson explained that a settlement agreement would be on file for review before the Commission makes any final decisions.

Joe Geffert, 7 Stonebridge Road, questioned if there would be elevators in the buildings.

Robert Smith, Timberlake replied there would be elevators.

Chairman Jeff Luff noted that the height requirement for the buildings is the same as residential homes. He asked again if everyone's questions have been answered.

Robert Smith, Timberlake answered the question about the buffer being bermed to add more height to the landscaping, and stated it could be done.

Chairman Jeff Luff questioned the applicant if they would be okay with a condition of approval that the project remains an assisted living facility for as long as it exists.

Attorney Smith stated that if the applicant ever wanted to make changes, it would have to come before the Commission and abide by public hearing procedures and requirements as well as their final action.

Chairman Jeff Luff stated that the Commission couldn't consider any financial aspects when making the decision.

Attorney Smith stated that a restrictive easement or a “no-build zone” could be added as a condition of approval for the area south of Building B.

David Seliga, 179 Riggs Street asked if drawings were part of the record.

Attorney Olson explained that “record” is a technical term, and if this was a public hearing, yes. He stated that it is not a public hearing; any documents submitted this evening would be on file in the P&Z Department.

David Seliga, 179 Riggs Street, questioned if the plans coincide with the actual construction documents.

Attorney Olson explained that the original application was accompanied by a site plan or “construction documents,” which was a proposed modification to the plans. He stated that these documents are a proposed modification to those original plans. He noted that if the Commission settles the appeal, the applicant would have to prepare new documents based on the settlement agreement.

David Seliga, 179 Riggs Street, questioned if the entrance would be moved.

Attorney Olson deferred to David Golebiewski.

David Golebiewski stated that there are many previous variations of plans for Oxford Greens in the P&Z department, and on some of those plans, the entrance may have been in a different place. He stated that the design of the entrance has been completely reworked for the proposed Assisted Living.

A member of the public asked when they could expect a decision regarding whether or not the Commission will settle.

Attorney Olson stated that the return of record is due in court by 9/8; hopefully commission action will be taken at the next meeting.

ADJOURNMENT


MOTION BY Commissioner John Kerwin adjourn the meeting at approximately 9:00 PM.


Second by Vice Chairman Arnie Jensen.

All (6) Ayes.

Motion passed.

Respectfully submitted,


Jessica Pennell, Coordinator
Planning & Zoning Commission

18 AUG 24 PM 3:05
TOWN OF OXFORD, CT

TOWN CLERK