

OXFORD PLANNING COMMISSION

MINUTES

JUNE 2, 2009

The regular monthly meeting of the Oxford Planning Commission was called to order by the chairperson, Pamela Baker, on Tuesday, June 2, 2009 at 7:00 p.m., in the meeting room of the Oxford Community Services Building.

Other commission members in attendance were Theodore Lutkus and Bernhard Witter.

The minutes of the meeting of April 7, 2009 were approved and accepted as distributed.

The following building permits were approved in the town office:

- | | | |
|--------|-----|--------------------------------------------------------------------------------------------------------------------------------------------|
| #09-23 | C-1 | Donna Richards, 214 N. Morris Street, 18" x 24" gallery sign. Section 8.02. To HDC. |
| #09-24 | R-2 | Eleanor Blayney, 109 South Street, replacement of all existing windows and related window trim. Section 23.01.1. To HDC. |
| #09-26 | R-2 | Eric Reitz, 105 Norton Street, roof dormer to accommodate space for bath. Section 21.01.1. To HDC. |
| #09-28 | R-2 | Nadine Russell, 205 Tilghman Street, replace fence pickets to enclose front yard with Oxford style fence. Section 32.12. To HDC. |
| #09-34 | R-1 | Joseph Botkin, 202 Third Street, enclose existing second floor screen porch and new pitched roof over existing flat roof. Section 21.01.1. |
| #09-35 | RR | Robert Dietz, 26025 Bachelor Harbor Drive, 3' decorative fence between house and accessory building. Section 32.12. |

Prior to review of building permits by the Planning Commission, Mrs. Baker announced that a discussion of a proposed short term rental ordinance, which the Commissioners requested that the Planning Commission review and make recommendations on, be the first item on the agenda. Because of the number of people in the audience, Mrs. Baker reminded the crowd that this meeting was a public meeting, not a public hearing, and that the commission would not be taking any public comments as the ordinance had not yet been introduced by the Commissioners. Mrs. Baker read aloud an e-mail sent to

her from absent commission member Donald Silliman which stated, in part, that he was in favor of a 30 day limitation and in support of the proposed ordinance. Mrs. Baker also read aloud a letter from Anthony "Tony" Passarella, another absent member of the commission, who stated, in part, that he was against the proposed ordinance as he did not see how it would benefit the town. He stated that "in a sense a thirty day rental punishes people who like the convenience of a rental home with all the amenities" and that when he was working he did not have the opportunity to take a 30 day long vacation. Mr. Lutkus stated that he had read the proposed ordinance and all the letters that have come to the commission both for and against short term rental. He found that there were good arguments on both sides with regards to those who are in favor of short term rentals and those who are not. Of those individuals who are against short term rentals, Mr. Lutkus found three strong points as to why they did not want them. They are as follows:

1. There is a nuisance problem. Some of the people who are using short term rentals are not the kind of people one would want to have living next door.
2. There needs to be a level playing field. The person who is offering their house for short term rental has an advantage over the B&B's and inns. The additional costs are not there and the regulations are not there.
3. Short term rentals change the character of the town.

Of the people who are in favor of short term rentals, Mr. Lutkus found that they too had three strong points as to why they looked favorably upon them. They are as follows:

1. Short term rentals are good for the town's local businesses.
2. Freedom of property rights. Property owners should have certain rights and be allowed the freedom to rent out one's home for short term rental, if that is what they want.
3. Short term rentals would not change the character of the town.

Mr. Lutkus stated he was concerned with fairness and that the town may be taking away some rights from individuals without being clear as to why they are doing that. He stated that since the town really did not know how many short term rental properties there were, there should be a system that tells the town that information before any final decisions are made. Mr. Lukus suggested that in order to do that a license or permit should be filled out in order to have short term rentals. Short term rentals would be defined as they currently are now, but if one wanted to have a short term rental, one would have to apply, fill out an application form, and pay a fee which would offset the advantage these properties currently have over the B&B's and inns. They should also be required to meet certain obligations, such as the number of people allowed in the house, any restrictions on the number of automobiles allowed, period of

time people stayed in the house, etc. This form would be given to the town office and kept in a ledger. Should any of the conditions in the license or permit be breeched, the permit could be withdrawn. Permits could be good for one year and could be reapplied for every year. At the end of the year the town would know how many people actually provided homes for short term rental use and how many visitors actually participated in renting short term. This could be tried for a year beginning in January of 2010. Once the facts are known a decision could be made based on the fact of whether or not it has hurt or helped the town.

Mr. Witter commented that he thought he agreed with Mr. Lutkus' comments in that the ordinance, as currently drafted, was somewhat extreme and may be too lopsided. He stated that it was not easy to write regulations that are fair and affective and that homeowners who currently have rental property next to them may have problems that those who do not have rentals next to them may not fully appreciate. Mr. Witter suggested having a fair election and that the commission put forward the ordinance, as it stands, with a limit of 30 days on short term rentals. Another suggestion would be to deal with short term rentals through the appeal process. If one's neighbors agree that their neighbor should be allowed to rent their property then they should be allowed to do so. Mr. Witter also thought that something along the lines that Mr. Lutkus had outlined would be another option so that people who rent out their homes could be fully registered so that the town would have a record of who the renters are and contact numbers where either the owner or owner's representatives could be contacted in case any problems arise. He added that the voters of the town should decide which the more attractive proposal is and that he definitely thought there was a need for change.

Mrs. Baker stated that one of the points that was of concern to her was that she had heard several business owners in town were very much opposed to restricting rentals. They felt that a town of permanent residents the size of Oxford absolutely cannot support as many businesses as they would like to see in town – particularly the restaurants. Mrs. Baker thought that the more the town tried to restrict people coming into town the more businesses would be hurt. She was also concerned about totally restricting any rentals less than 30 days and that this problem needed to be addressed one way or another.

Mr. Lutkus stated that his inclination was to approve the ordinance, but begrudgingly, and state the reasons that while the commission approves it they think there are some better ways to handle the situation. Mrs. Baker added that there were basically only two choices for the commission: 1) that either they recommend that the Commissioners introduce it but say there are better ways of doing it, or 2) recommend they not introduce it and explore better ways. Mr. Witter stated that he would not

want the Commissioners to think that the Planning Commission was endorsing it as the preferred action. He was of the opinion that the ordinance as it was drafted was fine but that it would only satisfy a certain proportion of the town's residents and therefore it needed more alternatives. Mr. Lutkus responded by stating that reversing what he had said before, the commission could say that they did not prefer the resolution or recommend it because the commission feels there are other ways for it to be done. Mrs. Baker agreed stating that the commission could recommend a preferred path, and that the recommendation would be not to introduce it. Mr. Witter stated that if the commission were to make a recommendation it could be for the Commissioners to hold a referendum on the issue by offering some choices.

It was unanimously agreed upon to recommend that the ordinance as drafted not be introduced but that a regulatory approach be taken to short term rentals whereby there is a permitted process and where there are criteria that the owners of the property have to meet. Mrs. Baker informed the audience that they would be drafting something up and circulating it around amongst themselves before submitting it to the Commissioners and that it would not be available for public display.

The following building permits were then reviewed by the Planning Commission:

#09-30 C-3 Thomas Campbell, 106 Richardson Street, 10' x 10' x 6' tall fence to enclose existing trash dumpster; materials to be red cedar and pressure treated wood. Mr. Campbell explained to the commission that he was requesting a 6' high fence in order to conceal a dumpster on his boatyard's property. Mr. Lutkus noted that the ordinance prohibits fences which are over 4' high so the permit would have to be denied but that the commission could pass on a favorable recommendation to the Board of Appeals. Mrs. Baker stated that the Planning Commission has always been more open towards fences more than 4' high between commercial and residential properties. Mr. Campbell stated that his neighbors were not opposed to the fence as they were the ones who suggested the drawing to him. Mr. Lutkus made a motion to deny the application because it is in violation of the zoning ordinance but to give a positive recommendation that a variance be granted. The motion was seconded by Mr. Witter and unanimously carried with all in favor.

#09-31 R-2 Kerm Henriksen, 207 S. Morris Street, repair/replace ten 8' x 6' stockade panels facing outward; install three 8' x 6' panels of green lattice mounted on brown plywood fencing facing inward to match existing 8' x 6' panels of green lattice on brown plywood fencing. Mr. Henriksen submitted photos to the commission showing a stockade fence between his residential property and the commercial property next door to him (the Oxford Market). In his photos he indicated where he could resalvage his

existing fence. Mrs. Baker stated that anything that is non-conforming, such as in this case a fence over 4' tall, if it comes down, is considered as starting from scratch and therefore must conform. Mr. Henriksen explained that when he started this project he started it as an ordinary repair and replace basis. As he started removing ivy from the existing 6' fence he discovered every panel had deterioration. He added that he always thought all he was doing was ordinary repair and replacement because with a fence of this nature one cannot buy individual pickets, only replaceable units. Also, this particular fence has two sides. Mr. Henriksen stated that he had not torn down any fencing on his side and had left it as it existed. The lattice work on his side of the fence had always been there as the finished side facing his property. Seven tenths of the fence on Mr. Henriksen's side was finished which had lattice on plywood board. Mr. Henriksen added that that was the way the fence was when he purchased his property and that he only wanted to finish the unfinished side of his fence. As he was replacing the other side of the fence (facing the Oxford Market) he thought he should finish the unfinished section of the side facing his property. He pointed out that when he purchased the property he found existing lattice pieces that were never put up and thought he would just finish the job. Mr. Henriksen noted that he had not changed the look of the fence or changed the existing height. Mrs. Baker stated that she did not see a problem with a 6' fence next to a commercial property. Mr. Lutkus noted the fence was in the same place as where it was before. Mr. Witter pointed out that the one side remained intact when the other side was being taken down for repair so that it should not be considered as a tear down. It was agreed by all three members that Mr. Henriksen did not need a permit for his fence and that the commission agreed it was repair and replacement work.

Permit #09-33 R-2 Mr. and Mrs. William Korab, 516 E. Strand, enclose existing porches, add major gables on east and west and minor gable dormers on south and north; addition to west elevation. Both Mrs. Korab and her architect, Tim Kearns, were present to discuss the application. Mr. Kearns stated that the Historic District Commission had approved the Korab's application with the condition that they come back before them once they decide what color to paint their standing seam metal roof. Mr. Kearns presented to the commission his calculation sheet pointing out that the additional impervious surface coverage added would only be 2.25%. He stated that his client would like to maintain the existing condition of the gravel on the property and that for a number of reasons the project had been redesigned to reduce the impact of coverage on the property. Mr. Kearns asked if the commission would allow the owners to maintain the existing impervious coverage in exchange of the significant reduction of the proposed new impervious surface coverage of the addition. Mrs. Baker responded that she did not think so based on rules. Other than a planting area, the entire property is impervious based on definition. Mr. Kearns questioned whether or not it was entirely

impervious because there were areas on the property which were not driven on by a vehicle. Mrs. Baker pointed out that by the Critical Area's definition even gravel that is just walked on becomes impacted and therefore is considered impervious. Mr. Lutkus agreed that this was a unique parcel since it was all impervious. Mr. Witter questioned what would happen if the property had some of its gravel removed and grass planted in its place. Mrs. Korab countered that if her property had grass and had to be fertilized how would that "be green," environmentally speaking, when currently the property drains properly, even after huge rains. Mrs. Baker asked to have the driveway shown and defined on the site plan. This ended the review of the permit.

This concluded the review of building permits.

A consultation was held with Thomas Corl and his architect, Tim Kearns, regarding Mr. Corl's house located at 206 N. Morris Street. Mr. Corl reminded the commission that he had met with them back in March of 2006 and had presented to them a larger plan of renovation work that he was proposing to make to his house. Since that time, Mr. Kearns had reworked the plans with a new, smaller design that would work within the existing footprint. The house would remain on the existing footprint in the front facing Morris Street, the back facing Factory Street, and on the north side. The owners would like the south side to push out about 1' and to raise the house up as they had discussed doing in the past. Mrs. Baker stated that if one has non-conforming setbacks and removes whatever is there, then whatever is placed back would have to conform. She did not know how to address the section of the house the owner's were looking to remove and replace with the increased 1' of space other than for them to ask for a variance for a new structure with the idea that they would be trying to preserve an existing historic structure and to make it accommodate to today's needs. Both Mr. Lutkus and Mrs. Baker stated they would be sympathetic to that request. Mr. Kearns asked if he would have to file a building permit with a full set of drawings and then be turned down by the Planning Commission. Mrs. Baker stated she did not think so and that a site plan was all the commission needed. Her feeling was that if Mr. Kearns could put together a site plan and then come back to the Planning Commission, the commission could make a recommendation to be sent on to the Board of Appeals.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby
Assistant Clerk

