

OXFORD PLANNING COMMISSION

MINUTES

NOVEMBER 5, 2019

The regular monthly meeting of the Oxford Planning Commission was called to order by the chairman, David Baker, on Tuesday, November 5, 2019, at 6:00 p.m., in the meeting room of the Oxford Community Services Building.

Other commission members in attendance were Edwin Miller, Steve Mroczek, James Reed, and Bruce Beglin.

The minutes of October 1, 2019 were approved and accepted as distributed.

The following permits were reviewed by the commission:

1. Permit #19-67, Richard Schramm, 208 S. Morris Street, replace existing fence between 210 and 208 S. Morris Street. Mr. Schramm referred to a letter he had written to Administrator Cheryl Lewis, which was included with his application, explaining that when he had purchased his house at 208 S. Morris Street, a wooden fence (6' in height) was already in place. At that time, approximately 10 years ago, that fence was old, rickety and beyond repair and needed to be replaced. In his letter, Mr. Schramm noted that the town office, at that time, had said he could replace the fence with a new one, with the same dimensions, because it replaced an existing fence. The letter went on to explain that that fence, which was installed 10 years ago, had now reached the end of its life and needed to be replaced again and based on the first replacement, Mr. Schramm assumed he could replace it again. The letter also went on to explain that Mr. Schramm's his neighbors at 206 S. Morris Street had asked about replacing the fence, but because they were busy with their own construction project, Mr. Schramm had offered to get quotes and a contractor and from there followed through and had the fence installed. The letter ended with stating that the new fence exactly duplicated the old one with Mr. Schramm apologizing for not checking with the office before moving ahead. Chairman Baker spoke stating that when it comes to fencing, an owner can repair a non-conforming fence by replacing a board here and there but if the non-conforming fence comes totally down then it is no longer considered grandfathered. As such, because the 6' fence came down, it should not have been replaced even though it has and that the Planning Commission could not approve it, based on the Oxford Zoning Ordinance. He added that Mr. Schramm did have the option of going before the Board of Appeals with a request for a special exception and that only the Board of Appeals could make that decision as to whether to approve the request or not. Mr. Mroczek spoke stating that the town does not want to see tall fences throughout the town but thought there must have been a reason at some point as to why that fence was there. Chairman Baker pointed out that the houses in Mr. Schramm's area are very close together. Mr. Schramm spoke stating that his neighbors did not mind the fence, that it was a joint project, and that the fence had been there 10 years and even more before that. He added that because the fence is right on the property line it does look as though it is a joint fence. Chairman Baker noted that he had observed that Mr. Schramm's property has a swimming pool and that the swimming pool did not have a 4' fence around it which is a requirement of the Oxford Zoning Ordinance. Mr.

Schramm responded that the swimming pool has a cover on it and that the pool is covered when it is not in use. Mr. Mroczek responded that a pool cover does not replace a fence and that the zoning ordinance clearly states that a fence is required around all swimming pools. Mr. Beglin added that pool fencing is part of the ordinance and that Mr. Schramm needed to address that. In going back to the 6' fence, Chairman Baker stated that he did not see a problem with the 6' fence staying as long as it was not expanded and to be replaced, it should have a special exception attached to it which would enable the 6' fence to go on forever. He also felt the fence should be painted according to the HDC guidelines and thought that the owner should go before the HDC as well with regards to this fencing. Chairman Baker then made a motion that the commission deny the application but send a recommendation to the Board of Appeals that they grant a special exception with the conditions that 1)if the present fencing needs replacing it must go back to appeals for permission to replace and 2) the fence needs painting as per the historic guidelines. The motion was seconded by Mr. Miller. Mr. Beglin asked to speak and addressed his fellow commission members stating that he was against any privacy fences in town and that his feelings were if one wanted a privacy fence, one would need to grow it. He added that he did not want to see Oxford turn into a town with 6' fences all around it and that he would vote against the motion to send a positive recommendation. Mr. Miller expressed hesitation in that he stated on the one hand he could understand the applicant's position in that he was told in the past he could replace the fence but that the zoning ordinance was clear as to the limitations as to how high a fence could be. As such, he added that he was no longer sure how to vote on the motion. Member of the audience, Timothy Kearns, spoke stating that Special Exceptions, as they apply to fences, were hard to understand and that maybe the town should revisit them and the procedure as to how they should be handled. Mr. Mroczek noted that the Planning Commission had made a recommendation to the Commissioners to revise the fence section of the Oxford Zoning Ordinance but that this had not yet been reviewed by the Commissioners. Chairman Baker added when the Commissioners do review the recommendation sent to them by the Planning Commission, there would be public input and that would be the time to discuss that matter. Another member of the audience, Catherine Bitter, also spoke in support of what Mr. Kearns had discussed with the members adding that she and Mr. Kearns worked together professionally in the community and that often taller fences would come up granted after the fact. She added that they needed to know what to discuss with their clients as to how fences were handled. Chairman Baker responded that every application is unique and that her answer to her clients should be to check with the town office and confirm any information with them. The motion to deny the application but to give a favorable recommendation to the Board of Appeals with the two conditions was again reopened and voted upon as follows:

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| - | David Baker | yea |
| - | James Reed | yea |
| - | Steve Mroczke | nay |
| - | Edwin Miller | nay |
| - | Bruce Beglin | nay |

The motion did not carry. A new recommendation was brought forward by Mr. Mroczek to disapprove the application as stated earlier by Chairman Baker but to send neither a favorable or unfavorable recommendation to the Board of Appeals. The motion was seconded by Mr. Miller. Mr. Beglin spoke stating that in an email Chairman Baker had sent out to the members he had mentioned that once a non-conformity is removed it is no longer allowed. Chairman Baker responded that that was essentially what the ordinance stated but it also states that a

non-conformity should not be encouraged—it did not say that it could not happen again. The members returned to the motion that Mr. Mroczek offered. Mr. Mroczek added to the motion the conditions that Chairman Baker had stated in the first motion that should the Board of Appeals approve the request they think about adding the two conditions. The vote was as follows:

-	David Baker	yea
-	James Reed	yea
-	Edwin Miller	yea
-	Steve Mroczek	yea
-	Bruce Beglin	nay

The motion carried. Mr. Miller noted that he was sympathetic to the comments made by Mr. Schramm but that he was concerned about the prior discussion held with Mr. Schramm concerning his swimming pool and lack of fencing around the pool. Mr. Mroczek spoke stating that that was not the subject of the Planning Commission's meeting with Mr. Schramm on this night but it was something that he himself would be bringing up at the Town Office because he thought it was against the zoning ordinance. Chairman Baker agreed and added that the only way around that would be for Mr. Schramm to apply for a variance.

2. #19-73, Herb Fredeking, 5012 Hel's Half Acre Rd., retroactive approval for a 6' high vinyl fence already constructed and a new 4' high black decorative anodized pool fence. Mr. Fredeking was represented at the meeting by Tim Glass from Lane Engineering. Mr. Glass explained that Lane Engineering had done a survey and building permit site plan for the house Mr. Fredeking had recently built. A swimming pool already existed on the property when Mr. Fredeking bought it. A section of 6' vinyl fencing was installed along one side of the pool area prior to obtaining a permit and now the owner is requesting that that 6' section of fencing be approved along with a request for 4' fencing to go around the remaining 3 sides of the swimming pool area. Mr. Glass stated that listening to the prior discussion concerning Mr. Schramm's fence, it sounded as though Mr. Fredeking did not have much of a chance for keeping his 6' fencing and that he could go back to the owner and suggest that he bring that section of fencing back down to 4' or appeal it. Mr. Glass brought to the commission's attention the original survey of the Fredeking property that showed a series of old shed structures that had been on the property that were added as a visual barrier for the swimming pool area prior to Mr. Fredeking purchasing the property. All the old sheds were torn down. Mr. Glass noted that the 6' fence had been placed along the same footprint as the sheds with the 6' fencing attempting to mirror some of that privacy that had been there in the past created by those buildings. The second part of the application is to continue from the end of the 6' fence with new 4' fencing to create a pool barrier that will tie back into the house and be compliant. This section will meet code and contain a gate with a child proof latch. Mr. Glass stated the owner was looking for approval that the existing fence be permitted to stay where it is and that if he decides to go to appeals to keep what he has, that would be his decision. Chairman Baker responded that if Mr. Fredeking were to cut the 6' fencing down to 4', he could continue with the rest of the 4' fencing that he wanted and the permit could be approved. He also suggested that the owner could create a living hedge that would form a privacy barrier as that would work as well. Mr. Glass asked if all fence permits had to come before the Planning Commission. Chairman Baker responded they did not, that fence permits could be approved in the town office but only if they met the town's Zoning Ordinance. Mr. Glass asked what kind of recommendation the commission would give if Mr. Fredeking were to decide to appeal his application. Mr. Mroczek responded that the permit

that the commission has before them would have to be disapproved and that he, himself, would make a negative recommendation to the Board of Appeals. Mr. Beglin responded that he would second that statement. Mr. Mroczek added that the oversized fence in question was not a fence that had been existing and it was the mistake made by the builder. A motion was then officially made by Mr. Mroczek to deny the application and with a recommendation to the Board of Appeals to not grant a special exception. The motion was seconded by Mr. Beglin and carried with the following vote:

- Steve Mroczek yea
- Bruce Beglin yea
- Edwin Miller yea
- James Reed abstaining vote

Chairman Baker noted that he had the option of not voting and therefore did not vote.

This concluded the review of building permits.

REVIEW OF REQUEST FOR AN APPEAL

An application requesting an appeal had been formally received from James Schuessler, resident of 903 S. Morris Street, regarding a request for a variance in order to build a front porch onto his corner lot. Mr. Schuessler was represented by local residential designer Timothy Kearns. Chairman Baker reminded the members that this property had been discussed with Mr. Kearns in consultation at a past meeting whereby the members did not see a problem with the request. Mr. Reed made a motion that the Planning Commission deny the site plan but send it to the Board of Appeals with a favorable recommendation. The motion was seconded by Mr. Mroczek and unanimously carried with all in favor.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Lisa Willoughby
Assistant Clerk